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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
 Separate paging is given to this Part in order that it may be filed as a separate compilation.

भाग II—खण्ड 3—उपखण्ड (ii) **PART II—Section 3—Sub-section (ii)**

(रक्षा मंत्रालय की छोड़कर) भारत सरकार के मंत्रालयों और (सब क्षेत्र प्रशासन की छोड़कर) केन्द्रीय प्राधिकरणों द्वारा जारी किये गये विधिक आदेश और अधिसूचनाएं।

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

ELECTION COMMISSION OF INDIA

New Delhi, the 24th October 1970

S.O. 3650.—In pursuance of clause (b) of sub-section (2) of section 116C of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgment of the Supreme Court of India, delivered on the 10th September, 1970, on an appeal from the judgment and order, dated the 17th February, 1969, of the High Court of Judicature for Rajasthan at Jodhpur in Election petition No. 4 of 1967.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 1094 of 1969

Magraj Patodia—Appellant

v.

R. K. Birla and others—Respondents.

JUDGMENT

HEGDE, J.

This appeal raises the question as to the validity of the election of Mr. R. K. Birla to the Lok Sabha, in the General Election held in 1967, from the Jhunjhunu constituency in the State of Rajasthan. The election for that constituency

was held in the month of February, 1967. The notification calling upon the constituency to elect one member to the Lok Sabha was published on January 13, 1967. The last date for filing the nomination was January 20, 1967. Several persons filed their nominations but some out of them withdrew later. Eleven persons including Mr. R. K. Birla (respondent No. 1) and Mr. Morarka Radheshyam (Respondent No. 2) contested the election. The polling took place on February 15, 18 and 20th. Counting commenced on the 21st of that month and completed on the 23rd on which date results were declared. According to the declaration made by the returning officer, respondent No. 1 secured 1,50,546 votes and respondent No. 2, 1,04,023. It is not necessary to refer to the other candidates in the course of this judgment. Respondent No. 1 was declared elected.

The appellant who is a voter in the Jhunjhunu constituency and a supporter of Mr. Morarka challenged the election of the respondent under s. 81 of the Representation of the People Act, 1951 (which will hereinafter be referred to as the Act) on various grounds. His petition was tried and dismissed by a single judge of the Rajasthan High Court. Thereafter he has brought this appeal under s. 116A of the Act.

The election of respondent No. 1 was challenged on various grounds. It was alleged that he had committed corrupt practices coming under s. 123(1) (bribery), 123(4) (false statements as regards the personal character and conduct of respondent No. (2), 123(5) (hiring or procuring vehicles for the free conveyance of electors) and 123(6) (incurring or authorising the incurring of expenditure in contravention of s. 77). The respondent denied the allegations made against him. At the trial of the case most of the grounds alleged in support of the petition were not pressed. At present we are only concerned with the allegation that respondent No. 1 had incurred or authorised the expenditure in contravention of s. 77 in connection with his election. Section 77 of the Act reads:

"Amount of election expenses and maximum thereof:

- (1) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent between the date of publication of the notification calling the election and the date of declaration of the result thereof, both dates inclusive.
- (2) The account shall contain such particulars as may be prescribed;
- (3) The total of the said expenditure shall not exceed such amount as may be prescribed."

Section 123(6) declares that incurring or authorising of expenditure in contravention of s. 77 is a corrupt practice. The maximum amount of expenditure prescribed for the Jhunjhunu constituency was Rs. 25,000. The return of respondent No. 1 showed that his total expenditure in connection with the election was Rs. 16380/96 p. If it is shown that the total expenditure incurred either by respondent No. 1 or his election agent or by others with their consent or under their authority exceeded Rs. 25,000 then the election of respondent No. 1 must be held to be void.

In the election petition the petitioner alleged that respondent No. 1 was an independent candidate; and that he was put up by the House of Birlas, one of the wealthiest business houses in the country who own and/or control and/or manage several companies. It was further alleged therein that respondent No. 1 himself was a man of considerable means. According to the petitioner during the course of election campaign many top Executives of several companies owned or controlled by the House of Birlas were brought by respondent No. 1 to the constituency and they lived there for over a month and worked for respondent No. 1. Several leading members of the Birla family including Mr. Ghanshyamdas Birla, Mr. Madho Prasad Birla, Mr. K. K. Birla and others stayed in the constituency and canvassed for respondent No. 1. He further alleged that vast material and human resources of several companies of the House of Birlas were drawn upon by the respondent No. 1 for his election campaign. Besides the Chief Executive Officers, hundreds of other Executive Officers and employees of several companies of the House of Birlas were also brought by respondent No. 1 from several places to the constituency for campaigning in his favour. The petitioner alleged that several lakhs of rupees were spent by respondent No. 1 in connection with his election. Proceeding to give particulars about the expenditure incurred he stated that the respondent No. 1 got printed lakhs of posters, pamphlets, leaflets and cartoons and got them distributed throughout the constituency and in that connection he spent about 2 lakhs of

rupees; he made a film of some meetings held and exhibited that film in various parts of the constituency and in that connection spent about Rs. 30,000; he employed a singing party which was taken by a motor truck from village to village for the purpose of reciting songs and performing bhajans and for that purpose spent about Rs. 3,000; he used about 200 jeeps and cars for his election campaign and in that connection incurred or authorised an expenditure of Rs. 6,00,000; for some of these jeeps (which were not hired) he incurred or authorised an expenditure of about Rs. 30,000 as drivers' salaries; he requisitioned the services of about 3,000 employees of the Birla concerns and for their maintenance and travelling expenses incurred more than Rs. 10 lakhs; he had 150 officers in the constituency and for their maintenance spent about Rs. 75,000; he set up 80 mosses at different places for feeding his canvassers as well as the electors and for that purpose he spent about Rs. 2 lakhs; he organised nearly 225 meetings and for that purpose incurred an expenditure of Rs. 33,750; for trunk calls in connection with the election, he spent about Rs. 5,000; for the repairs of the jeeps used in connection with the election spent about Rs. 50,000 and lastly spent about Rs. 75,000 for hiring jeeps. Some of the items of expenses mentioned above were not pressed at the hearing. We shall not refer to them in the course of this judgment. We shall confine our attention to only those heads of expenditure which were pressed for our acceptance.

Before we proceed to consider the merits of the case, it is necessary to mention that in the memorandum of appeal, the appellant had urged that in the High Court he was not given reasonable opportunity to put forward his case. He complained that his applications for examination of certain witnesses on commission were improperly rejected; he was not given sufficient opportunity to procure the attendance of the witnesses and lastly several documents produced by him in support of his case were improperly rejected. When the hearing of the appeal was taken up we suggested to the learned Counsel for the appellant, Mr. A. S. R. Chari to first deal with the plea that the appellant was not given reasonable opportunity to prove the case pleaded by him. After taking up that plea and arguing the appeal for sometime Mr. Chari informed us that he would not press that part of his case as he did not want the case to be either remanded or additional evidence taken in view of the fact that the next General Election is not far off. He informed us that he would argue the appeal on the basis of the evidence on record. At this stage it may also be mentioned that no application had been made in this Court for taking additional evidence. In view of the concession made by Mr. Chari, we will confine our attention to the merits of the case on the basis of the evidence on record.

Mr. Chari's case was that Mr. Morarka had incurred the wrath of the members of the family of Mr. Ghanshamdas Birla due to the fact that as Chairman of the Public Accounts Committee of the Parliament he had dug up many skeletons from the cupboards of some of the Birla concerns. It may be mentioned at this stage that Mr. Morarka was representing the Jhunjhunu constituency in the Lok Sabha from 1962 to 1967 and earlier as well and for a considerable time he was the Chairman of the Public Accounts Committee. The further case of Mr. Chari was that because of the hostility of the members of the Birla family towards Mr. Morarka, the members of that family sponsored the candidature of respondent No. 1 who was one of their top Executives, he being the Chairman of Shri Digvijay Woollen Mills Ltd., Jamnagar, a Birla concern and the President of a Chemical Company at Porbandar which is also a Birla concern. According to the appellant, respondent No. 1 was really an independent candidate but in order to facilitate him to exercise his money power as well as the money power of the Birla concerns, he posed as a Swatantra party candidate. It was said that a great deal of money was spent by the members of the Birla family and also by the companies under their control to further election prospects of respondent No. 1. Mr. Chari further contended that respondent No. 1 in agreement with the several members of the Birla family and some of the top officials of Birla concerns had devised a plan for spending money in connection with the election and the entire expenditure was incurred in accordance with that plan.

At the very outset, we may mention that respondent No. 1 is not a member of Mr. G. D. Birla's family though it is established that he is one of their top Executives. It also appears from the evidence that several members of the Birla family as well as other industrialists were keenly interested in the success of respondent No. 1. It may also be, as contended on behalf of the appellant that they were keen on defeating Mr. Morarka. Even according to the appellant the members of Birla family had both the means as well as the cause to spend for furthering the election prospects of respondent No. 1. But the real question for our decision is whether any expenditure in connection with his election was incurred by respondent No. 1 or by his election agent or by others with his consent or

under his authority in excess of the amount shown in his return and if so what that amount is? The expenditure incurred by the Swatantra Party or other friends or supporters of respondent No. 1 or by the enemies of Mr. Morarka without the consent or authority of respondent No. 1 cannot be taken into consideration as the law now stands.

In the election petition, the petitioner took the stand that respondent No. 1 was an independent candidate. It was not suggested therein that he was only nominally a Swatantra candidate and that he used the Swatantra Party as a shield to cover the enormous expenditure that he planned to incur during the election campaign. In fact in the election petition there is no reference to the Swatantra party. It is now established and it is not denied that respondent No. 1 was a Swatantra party candidate. His symbol in the election was the "Star", the symbol assigned to the Swatantra party by the election Commission. The plea of the petitioner that in truth and reality, respondent No. 1 was an independent candidate cannot be accepted. The charge that during the election expenditure was incurred by various persons in accordance with a preplanned design devised by respondent No. 1 and other was also not pleaded in the election petition. That ingenious contention appears to have been put forward only with a view to make it appear that expenditure incurred by the Swatantra party or by others in connection with respondent No. 1's election was all done with the consent or at any rate under the authority of respondent No. 1. Some support for this contention was tried to be sought from Ex. PW 14/5 and Ex. PW 42/6. PW 14/5 is a letter from respondent No. 1 to Mr. M. P. Biria. It is dated 30th December, 1966. In Ex. PW 14/5 (the genuineness of this letter is in dispute) respondent No. 1 is shown to have written to Mr. M. P. Biria as follows:

"I have been informed that Morarka was in Gudda constituency yesterday. He was touring with 4 jeeps. Debisinghji and Bhimsinghji have suggested that whenever I go to the constituency, I must also go at least with four jeeps, if not more, to create an impression on the public that I am in no way lacking in vehicles and publicity work against Morarka. SPK also informs me that Morarka has given 5 jeeps to Sumitra, his candidate for Jhunjhunu constituency. The same number of jeeps have been given to his Gudda constituency candidate. He has also told that each candidate can hire further 3 jeeps for which Morarka will pay the cost. From this you will kindly find that he is all out to win the election. It is also confirmed that in Nawalgarh he has given 5 jeeps to Mintre, who is his candidate. In view of the fact that he is now using more number of vehicles than in the last election we shall also have to fall in line with him, and, therefore all our friends like Debisinghji, Bhimsinghji, Raghuvirsinghji and Madan Singhji etc. feel strongly that we must also arrange to give at least 5 jeeps per constituency, if not more.

In reply to that letter Mr. M. P. Biria is said to have written Ex. P-42/6. That letter reads as follows:

"I am in receipt of your letter of 30th December from Jaipur regarding more requirements of jeeps. I have checked up with CACO and it is not possible for them to arrange any jeeps. Jitendra seems to have given you wrong information. I am however negotiating with CACO to give a cash donation for Rajasthan Swatantra Party and the cheque to be sent through you. I will let you know about this within a week.

As regards your further requirement of jeeps, you write that 10/15 jeeps can be delivered immediately by the Rajasthan agent of Mahindra. If this is so, then you please get these jeeps immediately in the account of our various officers and the finance should be arranged as per our decision in Pilani. Mr. Keshab Mahindra is out of Bombay and therefore I have not been able to contact him, but in any case, as these jeeps are available in Rajasthan for immediate use. I suppose there is no need for me to talk to Mr. Keshab Mahindra.

Durgaprasadji is now reaching Pilani on the 8th or 9th and you please consult him also about our total requirement of jeeps. I agree with you that we should not lag behind Radhesyam Murarka in our efforts. I also understand that he is going to step up his election efforts.

Shri R. K. Biria,
Pilani,

Yours sincerely,
(Sd.) MPB

c.c. Shri D. P. Mandella, Bombay."

While it is true that these letters, if they are genuine, as they are held to be by the trial court, do indicate that sometime in December respondent No. 1 was contemplating to secure large number of jeeps to match the number of vehicles used by respondent No. 2. But whether in fact he did so is a matter for proof. But from this letter we are unable to spell out that there was any settled plan for financing the election campaign. Our attention was not invited to any other evidence to show that there was such a plan. As mentioned earlier, no such plea had been taken in the petition. It is no doubt true that it appears from the record that seven jeeps were purchased by some persons who are said to be Birla employees on the 18th and 19th of January, 1967 through one Brijlal Ram Gopal of Jaipur. There is no evidence whatsoever to show that those jeeps were used in connection with the election. Though the surrounding circumstances do indicate that those jeeps might have been purchased through Birla employees for election purpose, those circumstances do not take the case beyond suspicion. In the absence of any proof as to their use we cannot come to any conclusion on the basis of the purchase of those jeeps.

Before proceeding to examine the evidence relating to the various items of expenditure said to have been incurred in connection with the election, it is necessary to bear in mind the various principles evolved by this Court to be followed while hearing an election appeal.

Taking into consideration the fact that a plea of corrupt practice is somewhat akin to a criminal charge and the further fact that the election cases are tried by experienced judges of the High Court, this Court ordinarily does not go behind the findings of fact reached by the trial judge who had the benefit of seeing the witnesses examined before him unless there is something basically wrong in the conclusions reached by him or the procedure adopted by him. This is not a rule of law but a rule of prudence. In *Amar Nath v. Lachman Singh and ors.* this Court observed:

"We have already observed in more than decision in the present series of election appeals that in the matter of appreciation of evidence and forming of conclusions with respect thereto, our normal approach would be to accept the findings of the trial judge and not to upset the same unless it was shown to us that the trial judge had not considered all the evidence in its proper perspective or that his inferences were not supported by the data relied on. We propose to follow the said rule in disposing of this appeal. We must also bear in mind that the charge of commission of a corrupt practice has to be proved by cogent and reliable evidence beyond any reasonable doubt and that such a charge cannot be established by any consideration of preponderance of probabilities."

While making these observations the learned judges relied on the decision of this Court in the case of *Jagdev Singh v. Pratap Singh*.

In the present appeal we do not propose to go into the question whether the evidence adduced by a petitioner in an election case should establish the case beyond any reasonable doubt but suffice it to say that that evidence must be cogent and conclusive. It is true that as observed in *Dr. M. Chenna Reddy v. V. Ramachandra Rao and anr.* that a charge of corrupt practice cannot be equated to a criminal charge in all respects. While the accused in a criminal case can refuse to plead and decline to adduce evidence on his behalf and yet ask the prosecution to prove its case beyond reasonable doubt such is not the position in an election petition. But the fact remains that burden of proving the commission of the corrupt practice pleaded is on the petitioner and he has to discharge that burden satisfactorily. In doing so he cannot depend on preponderance of probabilities. Courts do not set at naught the verdict of the electorate except on good grounds.

Now coming to the corrupt practice of incurring expenditure beyond the prescribed limit, in several decisions this Court has ruled that it is not sufficient for the petitioner to prove merely that the expenditure more than the prescribed limit had been incurred in connection with the election, he must go further and prove that the excess expenditure was incurred with the consent or under the authority of the returned candidate or his election agent. In *Rananjaya Singh*

- (1) Civil Appeal No. 717/68 decided on 23-8-1968.
- (2) AIR 1965 S.C. 183.
- (3) Civil Appeal No. 1449/68 decided on 17-12-1968.
- (4) (1955) 1, S.C.R. 871.

v. *Bainath Singh and ors.*; this Court had to consider a case where a proprietor of an estate lent the services of his Manager, Assistant Manager. 20 Ziladars and their peons for canvassing on behalf of his son. It was proved that the father was an old man and the returned candidate was helping his father in the management of his estate. The question in that case was whether because of the canvassing by those persons the returned candidate had committed the corrupt practice of engaging the services of more than the prescribed number of persons and further whether the salary and wages paid to them should have been included in computing the expenses incurred by the returned candidate. In that case there was no evidence to show that the services of those persons were either procured by the returned candidate or his election agent nor was it proved that their services were obtained with the consent or under the authority of the returned candidate or his election agent. This is what this Court observed in that case:

"There can be no doubt that in the eye of the law these extra persons were in the employment of the father of the appellant and paid by the father and they were neither employer nor paid by the appellant. The case, therefore, does not fall within s. 123(7) at all and if that be so it cannot come within section 124(4). It obviously was a case where a father assisted the son in the matter of the election. These persons were the employees of the father and paid by him for working in the estate. At the request of the father they assisted the son in connection with the election which strictly speaking they were not obliged to do, as the position in law at all different from the position that the father had given these employees a holiday on full pay and they voluntarily rendered assistance to the appellant in connection with his election. We think not. It is clear to us that qua the appellant these persons were neither employed nor paid by him. So far as the appellant was concerned they were mere volunteers and the learned advocate for the respondent admits that employment of volunteers does not bring the candidate within the mischief of the definition of corrupt practices as given in section 123(7). The learned advocate, however, contended that such a construction would be against the spirit of the election laws in that candidates who have rich friends or relations would have an unfair advantage over a poor rival. The spirit of the law may well be an elusive and unsafe guide and the supposed spirit can certainly not be given effect to in opposition to the plain language of the sections of the Act and the rules made thereunder. If all that can be said of these statutory provisions is that construed according to the ordinary, grammatical and natural meaning of their language, they work injustice by placing the poorer candidates at a disadvantage the appeal must be to Parliament and not to this Court."

The same view was reiterated in *Ram Dayal v. Br'raj Singh and ors.* Therein this Court ruled that unless it is established that expenditure was incurred in connection with the election by the candidate or his election agent or was authorised by them, it is not necessary to be included under s. 77 of the Act. Expenses incurred by an other agent or person without anything more need not be included in the account or return as such incurring of expenditure would be purely voluntary.

In *Mubarak Mazdoor v. Lal Bahadur*, the Allahabad High Court held that the expenditure voluntarily incurred by the friends and supporters of the returned candidate does not come within s. 123(3) even though the returned candidate was aware of the fact at the time of the election itself that his friends and sympathisers were incurring expenditure in connection with his election. That is also the effect of the decision in *Rananjaya Singh's case* supra. This Court as well as the High Courts have taken the view that the expenses incurred by a political party to advance the prospects of the candidates put up by it, without more do not fall within s. 77. That position in law was not disputed before us. But it is true as observed by the Bombay High Court in *Shivram Sawant Bhonsale v. Pratap Rao Deorao Bhonsale*: that if the court comes to the conclusion that an item of expenditure has been suppressed in the return of election expenses, the mere fact that there is no sufficient evidence about the amount that must have been spent is no ground for ignoring the matter. It is the duty of the court to assess all expenses as best it can and though the court should not enter into the region of speculation

(5) (1970) 1, S.C.R. 530.

(6) 20, E.L.R. 176.

(7) 17, E.L.R. 37.

or merely try to guess the amount that must have been spent, it would generally be possible to arrive at an amount of expenditure on a conservative basis and where it is possible to arrive at any such estimate, such estimated amount should be held as not shown by the candidate in his election account.

A somewhat similar was the view taken by this Court in Amar Nath's case (supra).

We shall now proceed to examine the evidence adduced in this case on the basis of the principles enunciated earlier. But before going to the evidence relating to the expenditure said to have been incurred by the 1st respondent in connection with his election, it is necessary to refer to a curious feature in this case. In the course of the trial of the case two files (files A and B) containing numerous documents were produced on behalf of the petitioner. One of those files viz. file 'A' was produced by P.W. 14 Mr. Nathuramka and the other was produced by Mr. Chandershekhkar, a member of Parliament through Mr. Sanghi, an Advocate. That file is file 'B'. These files are said to contain the correspondence relating to the election of respondent No. 1 exchange between various persons, such as respondent No. 1, Mr. M. P. Birla, Mr. S. P. Kaithan, Mr. K. K. Birla, Mr. Mokahria etc. Mr. Chandershekhkar has not appeared in the witness box. Mr. Sanghi did not give evidence in the case. It is not known how Mr. Chandershekhkar came to possess those documents. Now coming to file 'A', the story put forward by P.W. 14 is that he is a business man in Bombay; he was a friend of Mr. M. P. Birla and at his instance he worked for respondent No. 1 during the election; after the election respondent No. 1 fearing that there might be a raid on his residences in connection with the evasion of taxes or duties, handed over that file to him for safe keeping. The trial court has come to the conclusion that in that file there is not a single document relating to any business transaction. All the documents therein pertain to the election of respondent No. 1 and there could have been no fear of seizure of those documents. The story put forward by P.W. 14 is on the face of it unbelievable. It is most likely that P.W. 14 worked for Mr. Morarka during the election as suggested during his cross-examination. He seems to be a hired witness. But the fact that a document was procured by improper or even illegal means will not be a bar to its admissibility if it is relevant and its genuineness proved. But while examining the proof given as to its genuineness the circumstances under which it came to be produced into court have to be taken into consideration. Evidence has been adduced to prove some of the documents found in files 'A' and 'B' but the trial court has rejected that evidence excepting in regard to a few of the documents. It has given good reasons in support of its conclusion. The persons who tried to prove the signatures found on some of those documents are strangers to those who signed them. Their pretention as to their knowledge about the signatures of the concerned person was proved to be hollow. The principal witness who sought to prove several of the documents contained in files 'A' and 'B' is P.W. 33, Mr. Shankerlal Roopakdas. He is a thoroughly unreliable witness. He appears to be a dismissed employee of one of the Birla concerns. His pretention that he worked for respondent No. 1 during the election appears to be false. It is established that he was one of the counting agents of Mr. Morarka. No application was made to this Court to admit any documents as additional evidence in the case. Therefore in this appeal we are only concerned with those documents which were admitted in evidence by the trial court. As found by the trial court voluminous false evidence has been adduced in this case both on behalf of the petitioner as well as on behalf of respondent No. 1. Several of the answers given by respondent No. 1 during his cross-examination were not found to be true by the trial court. From an over-all review of the material on record, we are left with an uneasy feeling about the evidence adduced in the case. We have no doubt in our mind that in the Jhunjhunu parliamentary constituency during the last General Election enormous expenses had been incurred in support of the candidature of respondent No. 1. We do not know whether the same was true of Mr. Morarka though Ex. P.W. 14/5 indicates such a possibility. In the election petition, the petitioner sought not only to get set aside the election of respondent No. 1, he went further and claimed the seat for Mr. Morarka. Mr. Morarka in his written statement supported the pleas taken by the petitioner. Thereafter respondent No. 1 gave notice of filing recrimination against Mr. Morarka. Immediately thereafter Mr. Morarka withdrew his claim for the seat and contended that the petitioner could not claim the seat for him. Hence the second relief asked for by the petitioner in his petition was ordered to be dropped. This change in the front is not without significance.

This takes us to the expenses said to have been incurred by respondent No. 1 in connection with his election under the various heads.

We shall now take up the expenses said to have been incurred by respondent No 1 under various heads (only such of them as are pressed before us).

As seen earlier the petitioner's allegation in the petition was that respondent No. 1 incurred an expense of about six lakhs of rupees for purchasing petrol and mobil oil in connection with his election. In his election return respondent has shown as expense of only Rs 5466 89P under that head. Though the petitioner alleged in his petition that respondent No 1 had incurred an expense of about 6 lakhs for purchase of petrol and mobil oil, evidence was led only about three payments in that regard viz (1) a sum of Rs 2,000 to the proprietor of Arjundeo Dharmal of Caltex and (2) a sum of Rs 5,000 and another sum of Rs 5,700 to M/s Gangaram Jammadhar of Burmah Shell. No person connected with any of these pumps was examined in support of the alleged payments. The account books of those firms were also not got produced. To prove the payment of sum of Rs 2,000 to Arjundeo Dharmal of Caltex, one Mr Radha Kishan (P.W. 10) was examined. His case is that he is a friend of the son of the proprietor of the firm M/s Arjundeo Dharmal and he chanced to be present at the pump when one "B S Choudhary of Birlas" came and paid to Arjundeo Rs 2,000. Later on he was told by the proprietor of the firm that it was in connection with the supply of petrol and oil to respondent No 1. The learned trial judge was unable to place reliance on this chance witness. His evidence is highly artificial. No satisfactory explanation is forthcoming for not examining the proprietor of the firm in question. Now coming to the payment of a sum of Rs 5,000, the only witness who speaks about it is P.W. 19 Vasudev. His evidence for good reasons have been disbelieved by the learned trial judge. He is clearly a partisan witness. For the alleged payment of Rs 5,700 on January 28, 1967, the witness examined is P.W. 21. The learned trial Judge has disbelieved this witness as well. We see no reason to differ from the assessment of the evidence made by the learned trial judge. According to P.Ws 19 and 21 they chanced to be present at the time when payments in question were made through some third parties. Here again neither anyone connected with the firm was examined nor the firm's accounts were produced.

It was alleged in the election petition that respondent No 1 had spent about 2 lakhs of rupees on printing of posters, pamphlets, leaflets and cartoons and the preparation of badges of the election symbol 'Star', rubber balloons with the slogans "Vote for Birla" and flags of silk and cotton cloths and their distribution as also on wall paintings. Before us no arguments were advanced as regards the expenditure said to have been incurred for badges of election symbol, rubber balloons and flags. It was urged before us that respondent No 1 had paid a sum of Rs 22,000 to M/s Rai Bros of Bhiwani for wall painting. Several witnesses spoke to the fact that the Jhunjhunu constituency was flooded with wall paintings seeking vote for respondent No 1. But strangely enough no one connected with Rai Bros was examined in the case. The proprietor of Rai Bros was summoned to give evidence in the case but he did not appear in court. On the other hand one Mr. Ganesh Dutt appeared in court and presented a petition alleging that respondent No 1's election agent is not allowing the proprietor of Rai Bros., Mr. Ganpat Rai Joshi to appear in court and therefore Mr Joshi had asked him to produce the account-books of that firm in court. Neither Mr Ganesh Dutt was examined in the case nor the account-books otherwise proved. The allegation made by Mr Ganesh Dutt that the election agent of respondent No 1 did not permit Mr Joshi to appear in court remains unproved. The resulting position is that there is no evidence to show that any amount was paid to Mr Joshi either by respondent No 1 or his election agent or some one with his consent or under his authority. Similarly there is no satisfactory evidence about any excess expenditure incurred by respondent No 1 in publishing pamphlets, leaflets and handbills though as many as 56 different types of pamphlets appear to have been distributed during the election soliciting votes either for respondent No 1 or for the Swatantra party. There is no evidence as to who issued those pamphlets. As seen earlier, respondent No 1 had the powerful support of the members of the Birla family as well as of some other industrialists. Evidence was adduced to show that 76,000 copies of a cartoon—two starved out and emaciated bullocks evidently depicting that Congress rule has brought in nothing but poverty were got printed by one Mr Saxena, an Executive in a Birla concern at the Hindustan Times Press at Delhi for which he had paid Rs 2300 as charges. There is no evidence to show that these cartoons were got printed by respondent No 1 nor is there any evidence to show that they were got printed by Mr Saxena with the consent of respondent No 1 or under his authority. It may be that they were got printed to aid the election campaign of respondent No 1 though those cartoons could have been used in any constituency in India. Mr Saxena has not been examined as a witness in the case.

The fact that this cartoon was widely published in the constituency as is clear from the evidence adduced in the case without more cannot show that the expenditure for getting those cartoons printed was incurred by respondent No. 1.

Evidence was led to show that at about the time of the election, several telephones installed in the residences of some of the members of the Birla family and some of their executives were extensively used and the telephone charges ran into few thousands of rupees but there is no evidence to show that either those telephones were used in connection with the election or they were used at the instance or under the authority of respondent No. 1.

Evidence was also adduced to show that a large number of jeeps and cars were used in connection with the election. No evidence was adduced to show that they were either used by respondent No. 1 or that they were used with his consent or under his authority. In the circumstances of this case, the possibility of his friends using them on their own cannot be ruled out. As seen earlier several jeeps were purchased through one of the business associates of Birlas at about the time of the election but here again as mentioned earlier there is no evidence to show that those jeeps were used in Jhunjhunu constituency at the time of the election.

Evidence was led to show that thousands of persons worked for respondent No. 1 but there is nothing to show that they did not work voluntarily. At any rate there is no evidence to show that they were either paid for or at least their expenses were met by respondent No. 1. It was said that respondent No. 1 ran several messes to feed his workers as well as the voters. The trial court has found that the evidence relating to that aspect of the case is unreliable. We see no reason to arrive at a different conclusion.

Evidence was led to show that considerable expenses were incurred for arranging meetings. Here again there is no reliable evidence to show the amounts that were likely to have been spent for arranging the meetings or even to connect respondent No. 1 with the expenditure incurred in connection with those meetings.

Though the petitioner has failed to establish that any of the items of expenditure alleged to have been incurred by respondent No. 1 was in fact been incurred by him, there is voluminous and fairly convincing evidence to show that the constituency was flooded with election literature including posters, cartoons, paintings of the walls, leaflets, handbills etc. on behalf of respondent No. 1. There is also evidence to show that large number of vehicles were used in connection with the election. It is clear from the evidence on record that money was freely and liberally spent to further the prospects of respondent No. 1. In addition to this there is also evidence to show that in about December, 1966, an account was opened in the Pilani branch of the United Commercial Bank in the name of P.W. 32, Mr. Raghuvir Singh who was at that time the President of Jhunjhunu District Swatantra party. On the very day of the opening of the account a cheque for Rs. 1,50,000 issued by C.A.C.O. (Cement Allocation and Co-ordination Organization) was credited. Thereafter cash deposits of over 2 lakhs of rupees were made in that account. These monies were drawn by P.W. 32 mostly by issuing cheques in favour of Mr. Tibriwalla, one of the Birla Executives. According to P.W. 32, the contribution made by C.A.C.O. was made to the Swatantra party and the cash deposits made were the amounts collected by him for the benefit of the Swatantra party and that he spent the amounts received, in connection with the election of the Swatantra party candidates in the Jhunjhunu constituency. P.W. 32 is undoubtedly an interested witness. He was a supporter of respondent No. 1. He himself contested one of the assembly constituencies in the Jhunjhunu parliamentary constituency. In the 1962 General Election, he opposed respondent No. 2 and lost the election by a narrow margin. It is clear from his cross-examination (the court permitted the Counsel for the petitioner to cross-examine him) much reliance cannot be placed on his evidence. Counsel for the appellant asked us to hold that the account in the name of P.W. 32 was in reality the account of respondent No. 1; P.W. 32 lent his name as a cover. In fact it was Mr. Tibriwalla who withdrew the amounts from that account and utilised the same in connection with the election of respondent No. 1. In support of this contention he relied on the following circumstances:

The money was paid by C.A.C.O., a concern in which Birlas were interested. In Ex. P.W. 42/8, Mr. M. P. Birla had written to respondent No. 1 to say that he would persuade C.A.C.O. to make some contribution to Swatantra party and further the cheque could be sent through respondent No. 1 and cheques were mostly issued in favour of Mr. Tibriwalla. We agree with the learned judge of

the High Court that there is room to suspect that most of the amounts drawn from this account were likely to have been spent to further the election prospects of respondent No. 1. C.A.C.O. is not a Birla concern. It is an organization formed by several cement manufacturers. Birlas are only one of them. There is no evidence to show that the cheque in question was sent through respondent No. 1. It is proved that C.A.C.O. had contributed in connection with the election not only to the Swatantra party but also to the Congress party, the Jan Sangh and several other splinter groups. It has even given contributions to individual candidates as is seen from its accounts. In fact the contribution given by C.A.C.O. to the Congress party is much larger than made by it to the Swatantra party. Mr. Tibriwala was a member of the Swatantra party. From the facts proved it is not possible to come to a definite conclusion that he acted on behalf of respondent No. 1. If one looks at the way C.A.C.O. was distributing amounts during the election as donations, one is constrained to feel that those payments were intended as investments. Possibly C.A.C.O. did what other business concerns are doing. Such donations to political parties whether done in the crude way in which C.A.C.O. did or in a more subtle way would undermine the very foundation of our society. No democracy can survive, however ideal is the Constitution by which it is governed, if the principles underlying the Constitution are ignored. The best democratic Constitution can go the way the Weimar Constitution went.

It is true that many times corrupt practices at election may not be able to be established by direct evidence and the commission of those corrupt practices may have to be inferred from the proved facts and circumstances but the circumstances proved must reasonably establish that the alleged corrupt practice was committed by the returned candidate or his election agent. As mentioned earlier preponderance of probabilities is not sufficient.

For the reasons mentioned above this appeal must fail and it is hereby dismissed. But we cannot leave this appeal without expressing our uneasiness about the law relating to election expenses. Section 123(6) is by and large ineffective in controlling election expenses. There are ways to bypass that provision. From what we have seen in the various election cases that came before us we are of the opinion that law controlling expenses has been reduced to a mockery. We can only repeat the observations of this Court in *Rananjaya Singh's case* (supra) that "the appeal in this connection must be to the parliament."

Now coming to the question of costs, the trial court felt extremely unhappy in having had to award costs to respondent No. 1. But it had to because of the compulsion of the law—see s. 119 of the Act. We are not faced with any such compulsion. There is no provision in the Act which compels the appellate court to award costs to the successful party in an election appeal. This is eminently a fit case where we should not award costs to the returned candidate. The resulting position is that the appeal is dismissed but the parties are directed to bear their own costs in this appeal.

NEW DELHI,

The 10th September, 1970.

K. S. HEGDE, J.

A. N. GROVER, J.

[No. 82/4/67(RJ)].

ORDERS

New Delhi, the 13th October 1970

S.O. 3651.—Whereas the Election Commission is satisfied that Shri Gyanendra Misra, S/o Shri Nagendra Nath Misra, 111/70, Ashok Nagar, Kanpur, District Kanpur, Uttar Pradesh a contesting candidate for the mid-term general election 1969 to the Uttar Pradesh Legislative Assembly from 297-Kalyanpur Assembly Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

2. And whereas, the said candidate even after due notices has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for such failure;

3. Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Gyanendra Misra, to be disqualified for being chosen as and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. UP-LA/297/69(147).]

भारत निर्वाचन आयोग

आदेश

नई दिल्ली, 13 अक्तूबर, 1970

एस० ओ० 3651.—यतः निर्वाचन आयोग का समाधान हो गया है कि उत्तर प्रदेश विधान सभा के लिये मध्यावधि साधारण निर्वाचन 1969 के लिये 297-कल्याणपुर सभा निर्वाचन क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री ज्ञानेन्द्र मिश्र सुपुत्र श्री तनेन्द्र नाथ मिश्र, 111/70, अशोक नगर, कानपुर, जिला कानपुर, उत्तर प्रदेश, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गये नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का कोई लेखा दाखिल करने में असफल रहे हैं ;

2 और यतः उक्त उम्मीदवार ने, उसे सम्यक सूचनाएं दिये जाने पर भी अपनी इस असफलता के लिये कोई कारण अथवा स्पष्टीकरण नहीं दिया है; तथा निर्वाचन आयोग का यह समाधान हो गया है कि उसके पास इस असफलता के लिये कोई पर्याप्त कारण या व्याख्यान नहीं है ;

3. अतः अब, उक्त अधिनियम की धारा 10-क के अंतर्गण में निर्वाचन आयोग एन० द्वारा उक्त श्री ज्ञानेन्द्र मिश्र को संसद के दोनों सदनों में से किसी भी सदस्य के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिये उस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है ।

[पं० उ० प्र०-वि० सं०/297/69 (147).]

S.O. 3652.—Whereas the Election Commission is satisfied that Shri Rama Kant, S/o. Shri Baha Ganga Dass, R/o. Panchmukhi Hanuman Mandir, Panki Katra, Kanpur, Uttar Pradesh a contesting candidate for the mid-term general election 1969 to the Uttar Pradesh Legislative Assembly from 297-Kalyanpur Assembly Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

2. And whereas, the said candidate even after due notices has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for such failure;

3. Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Rama Kant, to be disqualified for being chosen as and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. UP-LA/297/69(148).]

एस० ओ० 3652.—यतः निर्वाचन आयोग का समाधान हो गया है कि उत्तर प्रदेश विधान सभा के लिये मध्यावधि साधारण निर्वाचन, 1969 के लिये 297-कल्याणपुर सभा निर्वाचन क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री रामाकान्त सुपुत्र श्री बाबा गंगादास, निवासी पंचमुखी हनुमान मंदिर, पनकी कटरा, कानपुर (उत्तर प्रदेश), लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाये गये नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का कोई लेखा दाखिल करने में असफल रहे हैं ;

और यतः उक्त उम्मीदवार ने, उसे सम्यक सूचनाएं दिये जाने पर भी अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है; तथा निर्वाचन आयोग का यह समाधान हो गया है कि उसके पास इस असफलता के लिये कोई पर्याप्त कारण या व्याख्यान नहीं है ;

अतः अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्द्वारा उक्त श्री रामाकान्त को संसद के दोनों सदनों में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और हाने के लिये, इस आदेश को तारीख से तीन वर्ष की कालावधि के लिए निरहित करता है।

[सं० उ० प्र०-वि० सं०/297/69 (148).]

New Delhi, the 19th October 1970

S.O. 3653.—Whereas the Election Commission is satisfied that Shri Jaswant Singh, S/o Shri Ram Chander, R/o 69-Vijai Nagar, Meerut City, District Meerut, Uttar Pradesh, a contesting candidate for mid-term general elections 1969 to the Uttar Pradesh Legislative Assembly from 401-Meerut Cantonment Assembly Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

2. And whereas, the said candidate even after due notices has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for such failure;

3. Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Jaswant Singh to be disqualified for being chosen as and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. UP-LA/401/69(149).]

By Order,

A. N. SEN, Secy.

नई दिल्ली, 19 अक्तूबर 1970

एस० ओ० 3653.—यतः निर्वाचन आयोग का समाधान हो गया है कि उत्तर प्रदेश विधान सभा के लिये मध्यावधि साधारण निर्वाचन 1969 के लिये 401-मेरठ कैन्टोन्मेन्ट निर्वाचन क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री जसवन्त सिंह सुपुत्र श्री रामचन्द्र निवामी 69-बिजय नगर, मेरठ शहर, जिला मेरठ, उत्तर प्रदेश, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धान्त बनाए गये नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे हैं ;

2. और यतः, उक्त उम्मीदवार ने, उसे सम्यक सूचना दिये जाने पर भी अपनी इस असफलता के लिये कोई कारण अथवा स्पष्टीकरण नहीं दिया है तथा निर्वाचन आयोग का यह समाधान हो गया है कि उसके पास इस असफलता के लिये कोई पर्याप्त कारण या न्यायौचित्य नहीं है ;

3. अतः, अब उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्द्वारा उक्त श्री जसवन्त सिंह को संसद के दोनों सदनों में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए, इस आदेश की तारीख से तीन वर्ष की कालावधि के लिये निरहित घोषित करता है।

[सं० उ० प्र०-वि० सं०/401/69 (149).]

आदेश से,

ए० एन० सेन, सचिव।

ORDER

New Delhi, the 15th October 1970

S.O. 3654.—Whereas the Election Commission is satisfied that Shri Ragho Ram Choudhary, formerly a resident of village and P.O. Raniganj District Gaya, now residing in village Rajepur, P.O. Sanda, P. S. Kurtha, District Gaya, a contesting candidate for mid-term election held in 1969 to the Bihar Legislative Assembly from 245-Imamganj Assembly Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

2. And whereas, the said candidate even after due notice has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for such failure;

3. Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Ragho Ram Choudhary, to be disqualified for being chosen as and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. BR-LA/245/69(121).]

By Order,

ROSHAN LAL, Secy.

आदेश

नई दिल्ली, 15 अक्टूबर, 1970

एस० नो० 3654—यतः निर्वाचन आयोग का समाधान हो गया है कि बिहार विधान सभा के लिए फरवरी, 69 में हुए मध्यावधि निर्वाचन के लिये 245-इमामगंज निर्वाचन क्षेत्र में चुनाव लड़ने वाले उम्मीदवार श्री राधो राम चौधरी जो पहले ग्राम तथा पो० रानीगंज, जिला गया के निवासी थे तथा जो ग्राम राजेपुर, पो० सन्दा, थाना कुर्था, जिला गया में रह रहे हैं लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्द्वारा बनाये गये नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहे हैं ;

और यतः, उक्त उम्मीदवार ने, उसे सम्बन्ध सूचना देने जाने पर भी अपनी इस असफलता के लिये कोई कारण अथवा स्पष्टीकरण नहीं दिया है ; तथा निर्वाचन आयोग का यह समाधान हो गया है कि उसके पास इस असफलता के लिये कोई पर्याप्त कारण या न्यायोचित्य नहीं है ;

अतः अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री राधो राम चौधरी को सदन के दोनों सदनों में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिये, इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है ।

[सं० बिहार-वि०स० 245/69 (121)]

आदेश से,

रोशन लाल, सचिव ।

MINISTRY OF FOREIGN TRADE*New Delhi, the 22nd October 1970*

S O. 3655.—In pursuance of rule 6 of the Export of Coir Products (Inspection) Rules, 1965, the Central Government hereby directs that the following amendment shall be made to the notification of the Government of India in the Ministry of Foreign Trade and Supply No S O 1459 dated the 19th April, 1969, namely —

In the Table below the said notification in column (3) against the Export Inspection Agency, Cochin for the word "Manager" appearing in item No 7, the following words shall be substituted namely, "Deputy Director".

In the Table below the said notification in column (5) against the Export Inspection Agency, Madras, for the word "Manager" appearing in item No 5, the following words shall be substituted, namely, "Deputy Director".

[No 60(9)/Exp Insp /67]

विदेश व्यापार मंत्रालय

नई दिल्ली, 22 अक्टूबर 1970

का० आ० 3655 —कयर उत्पाद निर्यात (निरीक्षण) नियम, 1965, के नियम 6 के अनुसरण में केन्द्रीय सरकार एतद्वारा निदेश देती है कि भारत सरकार के विदेशी व्यापार और आपूर्ति मंत्रालय की अधिसूचना सं० का० आ० 1459, तारीख 19 अप्रैल, 1969, में निम्नलिखित संशोधन किया जाएगा, अर्थात् —

उक्त अधिसूचना के नीचे की सारणी में, स्तम्भ (3) में, निर्यात निरीक्षण अभिकरण, कोचीन के सामने, मद सं० 7 में आने वाले "प्रबंधक" शब्द के स्थान पर, निम्नलिखित शब्द प्रतिस्थापित किया जाएगा, अर्थात् —

"उप निदेशक"।

उक्त अधिसूचना के नीचे की सारणी में स्तम्भ (5) में, निर्यात निरीक्षण, मद्रास के सामने, मद 5 में, आने वाले "प्रबंधक" शब्द के स्थान पर, निम्नलिखित शब्द प्रतिस्थापित किया जाएगा, अर्थात्, "उप निदेशक"।

[स० 60(9)/नि० नि०/67]

S O. 3656.—In pursuance of rule 8 of the Export of Coir Yarn (Inspection) Rules, 1966 the Central Government hereby directs that the following amendment shall be made to the notification of the Government of India in the Ministry of Foreign Trade and Supply No S O 1460 dated the 19th April, 1969, namely —

In the Table below the said notification in column (3) against the Export Inspection Agency, Cochin for the word "Manager" appearing in item No 10, the following words shall be substituted, namely, "Deputy Director",

In the Table below the said notification, in column (5) against the Export Inspection Agency, Madras for the word "Manager" appearing in item No 5, the following words shall be substituted, namely, "Deputy Director"

[No 60(22)/Exp Insp /67]

का० आ० 3656 —कयर सूत निर्यात (निरीक्षण) नियम, 1966, के नियम 8 के अनुसरण में केन्द्रीय सरकार एतद्वारा निदेश देती है कि भारत सरकार के विदेशी व्यापार और आपूर्ति मंत्रालय की अधिसूचना सं० का० आ० 1460, तारीख 19 अप्रैल, 1969, में निम्नलिखित संशोधन किया जाएगा, अर्थात् —

उक्त अधिसूचना के नीचे की सारणी में, स्तम्भ (3) में, निर्यात निरीक्षण अभिकरण, कोचीन के सामने, मद सं० 10 में आने वाले "प्रबंधक" शब्द के स्थान पर, निम्नलिखित शब्द प्रतिस्थापित किया जाएगा, अर्थात् —

"उप निदेशक"

उक्त अधिसूचना के नीचे की सारणी में, स्तंभ (5) में, निर्यात निरीक्षण अभिकरण, मद्रास, के सामने मद सं० 5 में, आने वाले "प्रबंधक" शब्द के स्थान पर, निम्नलिखित शब्द प्रतिस्थापित किया जायेगा, अर्थात्:—
"उप निदेशक"

[सं० 60(22)/नि० नि०/67]

S.O. 3657.—In pursuance of rule 8 of the Export of Human Hair (Inspection) Rules, 1968, the Central Government hereby directs that the following amendment shall be made to the notification of the Government of India in the late Ministry of Commerce No. S.O. 1610 dated the 3rd May, 1968, namely:—

In the Table below the said notification in column (2) against the Export Inspection Agency, Madras for the word "Manager" appearing in item No. 8, the following words shall be substituted, namely, "Deputy Director",

In the Table below the said notification in column (4) against Export Inspection Agency, Delhi for the words "2179, Gurdwara Road, Karol Bagh, New Delhi-5," appearing in item No. 6, the following words shall be substituted, namely:—

"6B/9, Northern Extension Area, Rajinder Nagar, New Delhi."

In the Table below the said notification in column (5) against the Export Inspection Agency, Cochin, the words Dr. A. N. Bose appearing in item No. 1 shall be deleted.

[No. 60(27)/Exp. Insp /67.]

M. K. B. BHATNAGAR,
Dy. Director (Export Promotion).

आ०का० 3657.—मानव बाल निर्यात (निरीक्षण) नियम, 1968 के नियम 8 के अनुसरण में केन्द्रीय सरकार एतद्वारा निदेश देती है कि भारत सरकार के भूतपूर्व वाणिज्य मंत्रालय की अधिसूचना सं० का० आ० 1610 तारीख 3 मई, 1968, में निम्नलिखित संशोधन किया जाएगा, अर्थात्:—

उक्त अधिसूचना के नीचे की सारणी में, स्तंभ (2) में, निर्यात निरीक्षण अभिकरण, मद्रास के सामने, मद सं० 8 में आने वाले "प्रबंधक" शब्द के स्थान पर, निम्नलिखित शब्द प्रतिस्थापित किया जाएगा, अर्थात् "उप निदेशक":

उक्त अधिसूचना के नीचे की सारणी में स्तंभ (4) में, निर्यात निरीक्षण अभिकरण दिल्ली के सामने मद सं० 6 में आने वाले "2179, गुरुद्वारा रोड, करौल बाग, नई दिल्ली-5" शब्दों के स्थान पर, निम्नलिखित शब्द प्रतिस्थापित किये जाएंगे, अर्थात्:—

"6B/9, नार्दर्न एक्स्टेंशन एरिया, राजेन्द्र नगर, नई दिल्ली-5"

उक्त अधिसूचना के नीचे की सारणी में, स्तंभ (5) में, निर्यात निरीक्षण अभिकरण, कोचीन के सामने मद सं० में आने वाले "डा० ए० एन० बोस" शब्द काट दिए जाएंगे।

[सं० 60(27)/नि० नि०/67]

एम० के० बी० भट्टनागर,
उप निदेशक (निर्यात संवर्धन)।

नई दिल्ली, 14 अक्टूबर, 1970

का० आ० 3395.—यतः भारत के निर्यात व्यापार के विकास के लिए जूट उत्पादों को निर्यात पूर्व गुण नियंत्रण और निरीक्षण के अध्यधीन करने के लिए कतिपय प्रस्ताव निर्यात (गुण नियंत्रण और निरीक्षण) नियम, 1964 के नियम 11 के उपनियम (2) द्वारा यथापेक्षित भारत के राजपत्र असाधारण तारीख 3 मितम्बर 1970, भाग 2, खण्ड 3, उपखण्ड (II) में पृष्ठ 1443-1450 पर भारत सरकार के विदेशी व्यापार मंत्रालय की अधिसूचना सं. का० आ० 2971 तारीख 3 मितम्बर 1970 के अधीन प्रकाशित किए गए थे;

और यतः एतद्वारा संभावित प्रभावित होने वाले सभी व्यक्तियों से 2 अक्टूबर 1970 तक आक्षेप और सुझाव आमंत्रित किए गए थे;

और यतः उक्त राजपत्र जनता को 3 मितम्बर 1970 को उल्लेख करा दिया गया था;

और यतः उक्त प्रस्तावों पर जनता से प्राप्त आक्षेपों और सुझावों पर केन्द्रीय सरकार ने विचार कर लिया है;

अतः अब निर्यात (गुण नियंत्रण और निरीक्षण) अधिनियम 1963 (1963 का 22) की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार निर्यात निरीक्षण परिषद् के मतानुसार करने के पश्चात् और इस विषय पर सभी विद्यमान अधिसूचनाओं को अधिकांश करते हुए यह राय होने के कारण कि भारत के निर्यात व्यापार के विकास के लिए ऐसा करना आवश्यक और समीचीन है एतद्वारा—

(1) अधिसूचित कर्तो है कि जूट उत्पाद निर्यात से पूर्व गुण नियंत्रण और निरीक्षण के अध्यधीन होंगे;

(2) जूट उत्पाद निर्यात (गुण नियंत्रण और निरीक्षण) नियम 1970 के अनुसार गुण नियंत्रण और निरीक्षण के प्रकार को गुण नियंत्रण और निरीक्षण के ऐसे प्रकार के रूप में विनिर्दिष्ट करती है जो ऐसे जूट उत्पादों को निर्यात पूर्व लागू होगा;

(3) (क) निर्यात निरीक्षण परिषद् द्वारा नियुक्त विशेषज्ञों के पैनल द्वारा अनुमोदित विनिर्देशों को ऐसे मानकों की परीक्षा और अनुमोदन करने के प्रयोजन के लिए मानक विनिर्देशों के रूप में मान्यता देती है।

टिप्पण : किसी मामले में जिसमें मिल/निर्यातकर्ता का यह अभिमत हो कि उपर्युक्त मान्यता-प्राप्त मानक विनिर्देशों से किसी विशिष्ट बाजार में निर्यात पर निरोध लगा हो और अथवा विहित विनिर्देश से भिन्न विशिष्टियों का माल स्वीकार करने के लिए इच्छुक हो तो वह परिषद् को अवगत कर सकेगी जो प्रस्थापना के ऐसे स्पष्टीकरण के पश्चात् या वह उचित समझे और यदि आवश्यक हो इसके द्वारा नियुक्त विशेषज्ञों के पैनल से परामर्श करने के पश्चात् ऐसे उपान्तरित विनिर्देशों के अनुसार जिनका वह अनुमोदन करे ऐसे देश को निर्यात अनुज्ञात कर सकेगी।

(ख) उपर्युक्त ऐसे मान्यताप्राप्त मानक विनिर्देशों के न होने पर निर्यात संविदा में या भारतीय मानक संस्था द्वारा जारी किए गए विनिर्देशों यदि कोई हो में दिए गए सन्निर्माण के लिए ठहराए गए अन्य विनिर्देशों जैसा कि परिषद् समुचित समझे को मान्यता देती है।

(4) अन्तर्राष्ट्रीय व्यापार के दौरान ऐसे जूट उत्पादों के निर्यात का तब तक प्रतिषेध करती है जब तक कि उनके साथ निर्यात (गुण नियंत्रण और निरीक्षण) अधिनियम 1963 (1963 का 22)

की धारा 7 के अधीन स्थापित निर्यात निरीक्षण अभिकरणों में से किसी के द्वारा जारी किया गया इस प्रभाव का प्रमाणपत्र न हो कि जूट उत्पादों के परेषण गुण नियंत्रण और निरीक्षण से संबंधित शर्तें पूरी करते हैं और मानक विनिर्देशों के अनुरूप हैं तथा निर्यात के प्रयोजनों के लिए स्वीकार किए गए हैं।

2. इस अधिसूचना में की कोई भी बात जूट उत्पादों के नमूनों के भावी श्रेताओं को भूमि समुद्र या वायु द्वारा निर्यात को लागू नहीं होगी परन्तु यह तब जब कि परेषण का पोत पर्यन्त निशुल्क मूल्य एक सौ रुपए से अधिक न हो।

3. परिभाषा :—इस अधिसूचना में 'जूट उत्पाद' से जूट से विनिर्मित उत्पादों के निम्नलिखित वर्गों में से कोई एक अभिप्रेत है अर्थात् :—

- (i) 'हेसियन' अर्थात् एक बार बंटा हुआ सादा साफ बुना हुआ फेब्रिक जिसका भार 4-112 औंस से 18 औंस प्रति गज (139.5 ग्राम से 434.0 ग्राम प्रति मीटर) हो और सामान्य आधारीक चौड़ाई 40" (101.60 सेण्टीमीटर) हो;
- (ii) "टाट का कपड़ा" अर्थात् दोहरा बंटा हुआ भारी कपड़ा या तो सादा या दुसूती जिसका भार 12 औंस से 34.56 प्रति वर्ग गज (372 ग्राम से 1072 ग्राम प्रति वर्ग मीटर) भिन्न-भिन्न चौड़ाइयों का;
- (iii) "हेसियन" और "टाट" के बोरे में अर्थात् (i) और (ii) में विनिर्दिष्ट कपड़े से बने हुए बोरे और जो विभिन्न वस्तुओं के लिए आधान के रूप में प्रयुक्त होते हैं और इसमें जूट बुल पैक और रूई की गांठों को लपेटने के लिए जूट के बोरे में सम्मिलित है;
- (iv) "कालीन के पीछे लगाने का कपड़ा" अर्थात् भिन्न भिन्न संरचनाओं का ब्रांड लूम हेसियन जिसका 104" (264.2 सेण्टीमीटर) से अधिक चौड़ाई पर भार 60 औंस प्रति वर्ग गज (195.3 ग्राम प्रति वर्ग मीटर) हो;

4. यह अधिसूचना 16 अक्टूबर 1970 से प्रवृत्त होगी।

[सं० 60(5)/70-३० आई० इ० जी०]

का० आ० 3396.—निर्यात (गुण नियंत्रण और निरीक्षण) अधिनियम 1963 (1963 का 22) की धारा 17 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और इस विषय पर सभी विद्यमान अधिसूचनाओं को अधिक्रान्त करते हुए केन्द्रीय सरकार एतद्वारा निम्नलिखित नियम बनाती हैं अर्थात् :—

1. संक्षिप्त नाम और प्रारंभ—(1) ये नियम जूट उत्पादन-निर्यात (गुण नियंत्रण और निरीक्षण) नियम 1970 कहे जा सकेंगे।

(2) ये 16 अक्टूबर 1970 को प्रवृत्त होंगे।

2. परिभाषाएं—इन नियमों में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो—

(क) 'अधिनियम' से निर्यात (गुण नियंत्रण और निरीक्षण) अधिनियम 1963 (1963 का 22) अभिप्रेत है।

(ख) 'अभिकरण' से अधिनियम की धारा 7 के अधीन कोचीन, मद्रास, कलकत्ता, मुंबई और दिल्ली में स्थापित निर्यात निरीक्षण अभिकरण अभिप्रेत है;

(ग) 'परिषद्' से अधिनियम की धारा 3 के अधीन स्थापित निर्यात निरीक्षण परिषद् अभिप्रेत है;

(घ) 'जूट उत्पाद' से जूट से विनिर्मित उत्पादों के निम्नलिखित वर्गों में से कोई एक अभिप्रेत है, अर्थात् :—

- (i) 'हेसियन' अर्थात् एक बार बटा हुआ, सादा बुना हुआ फेब्रिक जिसका भार 4. 1/2 औंस से 18 औंस प्रति गज (139. 5 ग्राम से 434. 0 ग्राम प्रति मीटर) हो, और सामान्य आधार्मिक चौड़ाई 44" (101. 60 से० मी०) हो ।
- (ii) 'टाट का कपड़ा' अर्थात् दोहरा बंटा हुआ, भारी कपड़ा या तो सादा या बुसूनी, जिसका भार 12 औंस से 34. 56 औंस प्रति वर्गगज (372 ग्राम से 1072 ग्राम प्रति वर्ग मीटर) भिन्न भिन्न चौड़ाइयों का;
- (iii) 'हेसियन' और 'टाट' के बोरे, अर्थात् (i) और (ii) में निर्दिष्ट कपड़े से बने हुए बोरे और जो विभिन्न वस्तुओं के लिए आधान के रूप में प्रयुक्त होते हैं और इसमें जूट बूल पैक और रुई की गांठों को लपेटने के लिए जूट के बोरे सम्मिलित हैं;
- (iv) 'कालीन के पीछे लगाने का कपड़ा' अर्थात् भिन्न भिन्न संरचनाओं का ब्रॉड हेसियन जिसका 104" (264. 2 से० मी०) से अधिक चौड़ाई पर भार 6. 0 औंस प्रति वर्ग गज (195. 3 ग्राम प्रतिवर्ग मीटर) हो ।

3. प्रक्रिया में गुण नियंत्रण—निर्यात के लिए आशयित जूट उत्पादों की गुण विनिर्माण मिलों द्वारा विनिर्माण की भिन्न भिन्न अवस्थाओं पर, निम्न वर्णित नियंत्रण के स्तरों सहित, निम्न-लिखित नियंत्रणों को प्रभावित करना सुनिश्चित किया जाएगा :—

- (1) एक प्रयोगशाला और निरीक्षण विभाग बनाए रखा जाएगा जिसमें परीक्षणों और निरीक्षण को, परिषद् द्वारा, यह सुनिश्चित करने के लिए कि विनिर्मित उत्पाद विनिर्देशों के अनुरूप है, दी गई सलाह के अनुसार आवृत्ति में निष्पादित करने के लिए यथोचित रूप से उपस्कर और कर्मचारी रखे जाएंगे ।
- (2) परीक्षणों और निरीक्षण के सब अभिलेख परिषद् द्वारा विहित रीति में बनाए रखे जाएंगे और परिषद्/अभिकरण को उपलब्ध करा दिये जाएंगे ।
- (3) (i) मिल के सभी उत्पादन पर परीक्षण और निरीक्षण इन नियमों से संलग्न परिशिष्टों और सारणियों में यथा विनिर्दिष्ट और उसमें विनिर्दिष्ट नियंत्रण के स्तरों पर, निष्पादित किए जाएंगे और समुचित अभिलेख और चार्ट नियमित और प्रायिक रूप से बनाए रखे जाएंगे ।
- (ii) इन नियमों के अधीन निरीक्षण के प्रयोजन के लिए हेसियन और एक प्रकार के सभी टाट के कपड़े, हेसियन और टाट के बोरे/कालीन के पीछे लगाने के कपड़े और परिसाधन विभाग की एक अकेली पारो में समस्त परिस्थितियों के अधीन विनिर्मित क्वालिटी, एक नियंत्रण एकक गठित करेगी ।
- (iii) सामग्री पर यथोचित पहचान चिह्न लगे होंगे ताकि, उनको विनिर्माण करने वाली विशिष्ट मशीन पर ठीक करने की कार्रवाई के लिए, जब कभी आवश्यक हो, पहचाना जा सके ।
- (iv) परीक्षण —
 - (क) परिशिष्ट 'क' में के अनुसार हेसियन और टाट का कपड़ा
 - (ख) परिशिष्ट 'ख' में के अनुसार जूट बूल पैक

- (ग) परिशिष्ट 'ग' में के अनुसार रूई की गांठों को लपेटने के लिए जूट के बोरे
- (घ) परिशिष्ट 'घ' में के अनुसार त्रेसियन के बोरे/टाट के बोरे
- (ङ) परिशिष्ट 'ङ' में के अनुसार कालीन के पीछे लगाने का कपड़ा

- (4) एक निश्चित प्रकार के जूट के सूत की पांच रीतों और जूट उत्पाद के विनिर्माण में प्रयोग के लिए समरूप परिस्थितियों के अधीन विनिर्मित क्वालिटी, हर दो घंटे में ली जाएगी और शक्ति के लिए परिक्षित की जाएगी।
- (5) विनिर्माण की सभी अवस्थाओं पर कारखाना, यह सुनिश्चित करने के लिए कि उत्पाद समुचित विनिर्देशों की विभिन्न अपेक्षाओं के अनुरूप है, समुचित नियंत्रण और जांच बनाए रखेगा।
- (6) नियंत्रण यूनितों जो विनिर्देश के अनुरूप नहीं हैं, के अग्रहण से संबंधित जानकारी देते हुए पृथक् अभिलेख बनाए रखे जायेंगे।
- (7) यदि, किसी समय, उत्पाद की अनुरूपता को विनिर्देश के अनुसार बनाए रखने में कोई कठिनाई है या परीक्षण उपस्कर खराब हो जाता है या यदि अभिकरण द्वारा किसी कारण से ऐसा करने का निदेश दिया जाता है तो निर्यात के लिए जूट उत्पादों का विनिर्माण अभिकरण और परिपक्व को प्रज्ञापना देते हुए निलम्बित कर दिया जाएगा। निर्यात के लिए उत्पादन, जैसे ही वस्तुएं विनिर्देशों के अनुरूप हो जाती है या उपस्कर ठीक हो जाता है या अभिकरण ऐसा निदेश देता है यथाशीघ्र पुनः प्रारंभ किया जा सकता है। उत्पादन पुनः प्रारंभ करने की बाबत सूचना अभिकरण और परिपक्व को भी भेजी जाएगी।

4. पैकिंग से पूर्व निरीक्षण—मिल द्वारा परीक्षणों के अतिरिक्त निर्यात के लिए विनिर्मित प्रत्येक नियंत्रण एकक का अभिकरण द्वारा परीक्षण किया जाएगा, और

- (1) यदि अभिकरण द्वारा किए गए परीक्षण से यह उपदर्शित होता है कि सामग्री मानक विनिर्देश की किसी एक या अधिक अपेक्षाओं पर खरी नहीं उतरती है, तो वह अग्रहीत कर दी जाएगी; और
- (2) यदि लिए गए नमूने मानक विनिर्देशों की अपेक्षाओं की अनुरूपता उपदर्शित करते हैं तो सामग्री निर्यात के लिए पैक करने के लिए पास कर दी जाएगी।

5. पैकिंग और चिह्न—नियम 4 के अनुसार पास की गई सामग्री मानक स्तर में अधिकथित अपेक्षाओं, यदि कोई हों, के अनुसार पैक की जाएगी और निम्नलिखित जानकारी से चिह्नित की जाएगी।

- (क) विनिर्माता का नाम और/या रजिस्ट्रीकृत व्यापार चिह्न, यदि कोई हो
- (ख) गांठ/रोल की संख्या
- (ग) सकल भार
- (घ) शुद्धभार
- (ङ) सामग्री का नाम
- (च) मात्रा

(छ) भारत और आयात करने वाले देश में प्रवृत्त विधि द्वारा अपेक्षित कोई अन्य जानकारी ।

6. मुद्रा लगाना—नियम 5 के अनुसार पैक की गई और चिह्नित की गई सामग्री की प्रत्येक गांठ/रोल अभिकरण द्वारा ऐसी मुद्रा से मुद्रांकित की जायेगी जो परिषद् द्वारा इस प्रयोजन के लिए अनुमोदित की गई हो ।

7. निर्यात से पूर्व निरीक्षण—अभिकरण, निर्यात से पूर्व जूट उत्पादों के परेषणों का निरीक्षण अनुदेशों के अनुसार और ऐसी आवृत्तियों पर निष्पादित करेगा जैसा कि परिषद् द्वारा इस निमित्त प्रत्येक मिल के लिए समय समय पर विनिश्चित किया जाय ।

8. निरीक्षण का आधार —जूट उत्पादों का निरीक्षण यह देखने के आशय से किया जाएगा कि वे अधिनियम की धारा 6 के अधीन केन्द्रीय सरकार द्वारा मान्यता प्राप्त विनिर्देशों (जिन्हें इसमें मानक विनिर्देश कहा गया है) के अनुरूप हैं ।

9. निरीक्षण की प्रक्रिया —

- (1) कोई निर्यातकर्ता/मिल जो जूट उत्पादों का निर्यात करना चाहता है ऐसा करने के अपने आशय का लिखित प्रज्ञापन और ऐसे प्रज्ञापन के साथ ऐसे निर्यात से सम्बन्धित संविदा में उल्लेख किए गए विनिर्देशों की एक घोषणा अभिकरण के निकटतम कार्यालय को देगा ताकि वह नियम 8 के अनुसार निरीक्षण करने में समर्थ हो सके ; वह ऐसे प्रज्ञापन के साथ एक घोषणा भी देगा कि जूट उत्पादों के परेषण का विनिर्माण नियम 3 में निर्दिष्ट नियंत्रण के अनुसार गुण नियंत्रण साधनों का प्रयोग करते हुए किया गया है और परेषण इस प्रयोजन के लिए मान्यता प्राप्त विनिर्देशों की अपेक्षाओं के अनुरूप है ।
- (2) निर्यातकर्ता/मिल अभिकरण के निकटतम कार्यालय को परेषण की प्रत्येक गांठ/रोल पर लगाए गए पहचान चिह्न भी भेजेगा ।
- (3) उपनियम (i) के अधीन प्रत्येक प्रज्ञापन और घोषणा अभिकरण के निकटतम कार्यालय को विनिर्माता के परिसर से परेषण के प्रेषण से तीन दिन से अन्यून पूर्व पहुंचेगी ।
- (4) उपनियम (i) के अधीन प्रज्ञापन और घोषणा की प्राप्ति पर अभिकरण जूट उत्पादों का निरीक्षण नियम 8 और परिषद् द्वारा इस निमित्त समय समय पर जारी किए गए अनुदेशों के अनुसार निष्पादित करेगा ।
- (5) यदि निरीक्षण के पश्चात् अभिकरण की राय है कि जूट उत्पाद नियम 8 की अपेक्षाओं और परिषद् द्वारा इस निमित्त जारी किए गए अनुदेशों के अनुरूप नहीं हैं तो वह निर्यातकर्ता को तदनुसार प्रज्ञापित करेगा ।

10. परीक्षण के लिए सुविधाएँ —मिल, स्कीम के अनुसार नमूने लेने और परीक्षण करने के लिए अपेक्षित सभी सुविधाएं देगी ।

11. निरीक्षण का प्रमाण पत्र —अपना यह समाधान करने के पश्चात् कि जूट उत्पाद नियम 3 की अपेक्षाओं के अनुसार विनिर्मित किए गए हैं और सामग्री, निरीक्षण करने पर अधिनियम की धारा 6 के अधीन केन्द्रीय सरकार द्वारा मान्यता प्राप्त विनिर्देशों के अनुरूप है, अभिकरण यह घोषणा करते हुए कि परेषण निर्यात योग्य है एक प्रमाण पत्र जारी करेगा ।

12. निरीक्षण का रखा।—इन नियमों के प्रयोजनों के लिए जूट उत्पादों का निरीक्षण मिल के परिसर पर निष्पादित किया जाएगा।

13. निरीक्षण फीस—जूट उत्पादों के निरीक्षण के लिए निरीक्षण फीस के रूप में निरीक्षण के लिए सूचना सहित, ऐसे परिषण के पोल पर्यन्त निःशुल्क मूल्य के प्रत्येक एक सौ रुपये के लिए छः पैसे की दर से संदाय की जाएगी।

14. अपील—(1) अभिकरण द्वारा नियम ii के अधीन प्रमाण पत्र देने से इन्कार करने के कारण व्यक्त कोई व्यक्ति, उसे ऐसी संसूचना की प्राप्ति के दस दिनों के भीतर केंद्रीय सरकार द्वारा इस प्रयोजन के लिए गठित तीन से अन्यून व्यक्तियों के विशेषज्ञों के एक पेनल को अपील कर सकता है।

(2) पेनल की गणपूर्ति तीन होगी

(3) ऐसी अपील पर पेनल का विनिश्चय अंतिम होगा।

परिशिष्ट 'क'

सारणी—हेसियन। टाट के कपड़े के लिए नियंत्रण के स्तर

क्र०सं०	परीक्षण अपेक्षाएं	नमूनों की संख्या	टिप्पणियां
1	दृष्टि निरीक्षण	सभी टुकड़े	
2	चौड़ाई	उत्पादन के हर दो घंटे से	$\left. \begin{array}{l} \text{प्रति दिन 20 टुकड़े न्यून-} \\ \text{तम के अध्यधीन} \end{array} \right\}$
3	सिरे/डेसिमिटर	लिए गए पांच, पांच टुकड़े	
4	पिक्म/डेसिमिटर		
5	ग्राम/मीटर में भार		
6	पुनः प्राप्त नमी		
7	भंजन भार	उत्पादन के हर 2 घंटे से लिए गए दो दो टुकड़े	प्रतिदिन 8 टुकड़े न्यूनतम के अध्यधीन
8	तेल अन्तर्वस्तु	उत्पादन के हर 4 घंटे से लिया गया एक एक टुकड़ा	प्रतिदिन 2 टुकड़े न्यूनतम के अध्यधीन

सारणी -- हेसियन रॉल के लिए नियंत्रण के स्तर

क्र० सं०	परीक्षण अपेक्षाएं	नमूनों की संख्या	टिप्पणियां
1	दृष्टि निरीक्षण	सभी रॉल	
2	चौड़ाई		
3	सिरे/डेसिमीटर	उत्पादन के हर दो घंटे से) प्रति दिन 8 रॉल न्यूनतम	
4	पिक्स / डेसिमीटर	लिए गए दो रॉल) के अर्धधनीन ।	
5	ग्राम / मीटर 2 में भार]		
6	पुनः प्राप्त नमी]		
7	भजन भार	उत्पादन के हर दो घंटे से) प्रति दिन 4 रॉल (प्रत्येक लिया गया एक रॉल) रॉल से 1 मीटर के 2 अलग टुकड़े से कर) न्यूनतम के अर्धधनीन ।	
8	तेल अन्तर्वस्तु	उत्पादन के हर 4 घंटे से प्रति दिन 2 रॉल न्यूनतम लिया गया 1 रॉल के अर्धधनीन	

परिशि.ट--'ख'

जूट बूल पैक

परीक्षण	व्यौरे	नियंत्रण के स्तर	
क्र० सं०	अपेक्षा	नमूनों की संख्या	लाट आकार
1	दृष्टि निरीक्षण	सभी पैक	
2	पैकों की विभाएं (ऊंचाई, लम्बाई, चौड़ाई, खुली ऊपरी विभाएं, बिना सिले फ रैप-विभाएं)	15 पैक	
3	भार प्रति पैक	15 बंडल (प्रत्येक में 5 पैक)	एक नियंत्रण एकक
			अपेक्षित पैकों की संख्या एक अकेले दिन की सम्पूर्ण कालावधि में समान रूप से लिए जाने चाहिए (एक नियंत्रण एकक)

परिक्षण व्यौरे		नियंत्रण के स्तर	
क्र० सं०	अपेक्षा	नमूनों की संख्या	लाट आकार
4	सिरे और पिकस प्रति डेसिमीटर	15 पैक	
5	पुनः प्राप्त नमी		
6	सफाई, लाल धारियों और लेबल की स्थिति	50 पैक	
7	फेब्रिक का भंजन भार	3 पैक	एक नियंत्रण एकक
8	सीम का भंजन भार		
9	तेल अन्तर्वस्तु	2 पैक	यथोक्त

परिशिष्ट 'ग'

रुई की गाँडों पर लगेटने के लिए जूट के बोरे

परीक्षण व्यौरे		नियंत्रण के स्तर	
क्र० सं०	अपेक्षा	नमूनों की संख्या	लाट आकार
1	साधारण अपेक्षा	20	एक नियंत्रण एकक
2	सिरे और पिकस		
3	लम्बाई और चौड़ाई		
4	13.75 प्रतिशत नमी अन्तर्वस्तु पर प्रति मीटर भार*		
5	वार्प और बेफट के टेक्स (ग्रिस्ट)		

* 13.75 प्रतिशत नमी अन्तर्वस्तु पर भार प्रति मीटर अवधारित करने के प्रयोजन के लिए पुनः प्राप्त नमी, प्रत्येक टुकड़े में 5 स्थानों पर मापी जाएगा और परिणामों का अभिप्राप्त औसत संगणना करने के लिए प्रयोग किया जाना चाहिए।

परिशिष्ट-‘घ’

हेसियन/टाट के बोरे

परीक्षण व्योरे	नियंत्रण का स्तर
क्र० सं०	
1 बोरे की बाहरी लम्बाई और चौड़ाई 2 भार प्रति बोरा 3 पुनः प्राप्त नमी	20 बोरे एक नियंत्रण एकक उत्पादन के हर दो घंटे से लिए गए पांच पांच बोरे।
4 भंजन भार 5 सीम सामर्थ्य	6 बोरे एक नियंत्रण एकक किसी नियंत्रण एकक से लिए गए प्रत्येक प्रथम और अन्तिम नमूने से तीन-तीन।
6 तेल अंतर्वस्तु	2 बोरे एक नियंत्रण एकक किसी नियंत्रण एकक के प्रत्येक प्रथम और अन्तिम से एक-एक।

स्कीम के अन्तर्गत आने वाले बोरो के विनिर्माण में प्रयुक्त होने वाला हेसियन/टाट का कपड़ा परिशिष्ट ‘क’ के अनुसार परीक्षित और पास किया जाएगा।

परिशिष्ट ‘ङ’

कालीन के पीछे लगाने का कपड़ा

परीक्षण व्योरे		नियंत्रण के स्तर	
क्र० सं०	अपेक्षा	रॉल की सं०	लाट आकार
1	साधारण अपेक्षा		
2	सिरे और पिक्स		
3	चौड़ाई		

परीक्षण और		नियंत्रण के स्तर		
क्रम संख्या	अपेक्षा	नमूनों की संख्या	लाट	आकार
4	बो, बायम, संयुक्त बो और बायम, बेकड फाल-आफ	एक रोल प्रति क्वालिटी	प्रत्येक	एक नियंत्रण एकक (अर्थात् रोलिंग मशीन के एक अकेले पारी का उत्पादन)
5	भार प्रति वर्ग मीटर			
6	लम्बाई प्रति रोल			
7	तेल अन्तर्वस्तु			
8	भजन भार	3 रोल प्रति क्वालिटी	प्रत्येक	एक नियंत्रण एकक

[सं० 60(5)/70-नि०नि०]

का० अ० 3397. --निर्यात (गुण नियंत्रण और निरोक्षण) अधिनियम, 1963 (1963 का 22) को धारा 7 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रिय सरकार एतद्वारा निम्नलिखित निर्यात निरोक्षण अभिकरणों को, जूट, उत्पादों का, उनके निर्यात से पूर्व, निरीक्षण करने के लिए अभिकरणों के रूप में मान्यता देती है, अर्थात्:--

1. निर्यात निरीक्षण अभिकरण, कलकत्ता,
'वर्ल्ड ट्रेड सेन्टर' 14/1 बी—इजरा स्ट्रीट, कलकत्ता—1
2. निर्यात निरीक्षण अभिकरण, मुम्बई,
'मनी महल' 11/21, मैथ्यू रोड, मुम्बई—4
3. निर्यात निरीक्षण अभिकरण, मद्रास,
'वर्ल्ड ट्रेड सेन्टर,' 123, माउन्ट रोड, मद्रास—6.
4. निर्यात निरीक्षण अभिकरण, दिल्ली,
6-बी/9, नार्दन एक्मटेन्शन एरिया, नई दिल्ली—5.
5. निर्यात निरीक्षण अभिकरण, कोचीन,
'मनोहर विल्डिगज,' महात्मा गांधी रोड, एरणाकुलम,
कोचीन—11

टिप्पणी:--इन अधिनियमों में "जूट उत्पाद" से जूट से विनिर्मित उत्पादों के निम्नलिखित वर्गों में से कोई एक अभिप्रेत है, अर्थात् --

- (i) हेमियन, अर्थात् एक बार बंटा हुआ, सादा बुना हुआ फेब्रिक जिसका भार 4.1/2 औंस से 18 औंस प्रति गज (139.5 ग्राम से 434.0 ग्राम प्रति मीटर) हो और सामान्य आधार्मिक चौड़ाई 40." (101.60 सें० मी०) हो ;
- (ii) "टाट का कपड़ा" अर्थात् दोहरा बंटा हुआ, भारी कपड़ा या तो सादा या बुसुती, जिसका भार 12 औंस से 34.56 औंस प्रति वर्ग गज (372 ग्राम से 1072 ग्राम प्रति वर्ग मीटर) भिन्न भिन्न चौड़ाइयों का ;

- (iii) 'हेसियन' और 'टाट' के बोरे, अर्थात् (i) और (ii) में निर्दिष्ट कपड़े से बने हुए बोरे और जो विभिन्न वस्तुओं के लिए अधान के रूप में प्रयुक्त होते हैं और इसमें जूट बूलपैक और रुई की गांठों को लपेटने के लिए जूट के बोरे सम्मिलित हैं ;
- (iv) 'कालीन के पीछे लगाने का कपड़ा' अर्थात् भिन्न भिन्न संरचनाओं का ब्रांड लूम हेसियन जिसका 10.4" (264.2 से० मी०) से अधिक चौड़ाई पर भार 6.0 ग्राम प्रति वर्ग गज (195.3 ग्राम प्रति वर्ग मीटर) हो।

[सं० 60(5)/70-ई आई ईपी]

के० एस० भटभागर, संयुक्त सचिव।

(Office of the Chief Controller of Imports and Exports;

ORDER

New Delhi, the 15th October 1970

S.O. 3658.—M/s. The State Trading Corporation of India Ltd., New Delhi, were granted licence No. G/T/2382503 dt. 17 July, 1969 (valid upto) 17th October, 1970) from USA under US Aid for import of (i) 3 CYANOPYREDINE (ii) 4 CYANOPYRIDINE for (i) 15 Tonnes (ii) 15 Tonnes valued Rs. 6,00,000. They have requested for the issue of duplicate Customs Purposes copy of the licence on the ground that the original Customs Copy of the licence has been lost by them. It has been further reported by the licensee that the licence has not been registered with any Port and also not utilised.

In support of their contention, the applicant have filed an affidavit. The undersigned is satisfied that the original Customs Purposes Copy of the licence No. G/T/2382503 dt. 17th July, 1969 has been lost and directs that a duplicate Customs Copy of the said licence should be issued to them. The original Customs Purposes Copy is cancelled.

The duplicate Customs Copy of the licence is being issued separately.

[No. STC/MISC-44/69-70/RM Cell.]

G. S. SHARMA,

Dy. Chief Controller of Imports & Exports.

मुख्य नियंत्रक, आयात-निर्यात का कार्यालय

आदेश

नई दिल्ली, 15 अक्टूबर, 1970

एस० ओ० 3658.—मर्सनरी डिस्ट्रेट ट्रेडिंग कारपोरेशन आफ इंडिया लि०, नई दिल्ली को औद्योगिक विकास सम्बन्धी अमरीकी अभिकरण के अन्तर्गत संयुक्त राज्य अमरीका से 6,00,000/- (छैः लाख) रुपये के मूल्य के (1) 3 माइनोपिरिडिन, 15 टन, (2) 4 माइनोनिरिडिन, 15 टन के आयात के लिए 17-10-1970 तक वैध लाइसेंस संख्या जी/टी/2382503, दिनांक 17-9-69 जारी किया गया था। उन्होंने लाइसेंस की सीमा-शुल्क प्रति की अनुलिपि जारी करने के लिए इस आधार पर आवेदन किया है कि लाइसेंस की मूल सीमा-शुल्क प्रति उन से खो गई है। लाइसेंसधारी ने यह भी सूचना दी है कि लाइसेंस का पंजीकरण किसी पत्तन में नहीं किया गया है और उसका उपयोग भी नहीं किया गया है।

अपने तर्क की पुष्टि में आवेदन ने एक शपथ-पत्र जमा किया है। अधोहस्ताक्षरी संतुष्ट है कि लाइसेंस सं० जी/टी/2382503, दिनांक 17-7-1969 की मूल सीमा-शुल्क प्रति खो गई है और

निवेश देना है कि आवेदक को उक्त लाइसेंस की सीमा-शुल्क प्रति की अनुलिपि जारी की जाए। मूल सीमा-शुल्क प्रति को रद्द किया जाता है।

लाइसेंस की सीमा-शुल्क प्रति की अनुलिपि अलग से जारी की जा रही है।

[सं० एम टी सी/मिस्क-44/69-70/आर एम सेल]

(जी० एस० शर्मा)

उप-मुख्य निवृत्तक, आयात-निर्यात।

MINISTRY OF HEALTH AND FAMILY PLANNING AND WORKS, HOUSING AND URBAN DEVELOPMENT

(Department of Health)

New Delhi, the 2nd June, 1970

S.O. 3659.—Whereas the Central Government have, in pursuance of the provisions of clause (a) of sub-section (1) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956), re-nominate, in consultation with the Government of Punjab, Dr. Harmel Singh, FRCS, Director of Health Services, Punjab, Chandigarh, to be a member of the Medical Council of India with effect from the 5th February, 1970;

And whereas in pursuance of the provisions of clause (b) of sub-section (1) of section 3 of the said Act, the following persons have been re-elected by the University specified against each of them to be members of the said Council with effect from the date shown against each, namely:—

Name of Person	Name of the University which elected him	date of election
1. Dr. A. S. Paintal, MD, PhD, DSc, FRSE, Director, V. P. Chest Institute, University of Delhi, Delhi.	Delhi University.	3-5-1970.
2. Dr. Y. K. Sinha, MBBS, PhD., Prin- cipal, Darbhanga Medical College, Laharinasrai.	Bihar University.	30-3-1970.

Now, therefore, in pursuance of the provisions of sub-section (1) of section 3 of the said Act, the Central Government hereby directs that Dr. Harmel Singh, Dr. A. S. Paintal and Dr. Y. K. Sinha shall continue to be members of the said Council.

[No. F.4-26/69-MPT.]

स्वास्थ्य, परिवार नियोजन, निर्माण, आवास एवं नगर विकास मन्त्रालय

(स्वास्थ्य विभाग)

नई दिल्ली, 2 जून 1970

एस० ओ० 3659.—यतः केन्द्रीय सरकार ने भारतीय चिकित्सा परिषद् अधिनियम, 1956, (1956 का 102) की धारा 3 की उप-धारा (1) के खण्ड (क) के उपबन्धों का पालन करते हुए, पंजाब सरकार के परामर्श से डा० हरमेल सिंह, एफ० आर० सी० एस०, स्वास्थ्य सेवा निदेशक, पंजाब, चण्डीगढ़, को 5 फरवरी, 1970 से भारतीय चिकित्सा परिषद् के सदस्य के रूप में पुनः मनोनित किया है।

और, यः उक्त अधिनियम की धारा 3 की उप-धारा (i) के खण्ड (ख) के उपबन्धों का पालन करते हुए निम्नलिखित व्यक्तियों को उनके सामने अंकित तिथि में उनके सामने दिये गये हैं विश्वविद्यालय द्वारा पुनः निर्वाचित किया है, नामः :—

व्यक्ति का नाम	निर्वाचित करने वाले का नाम	निर्वाचन तिथि
1. डा० ए० एस० पेंतल, एम० डी०, पी० एच० डी०, दिल्ली विश्वविद्यालय डी० एच०-सी०, एफ० आर० एस० ई० निदेशक, बी० पी० चैम्बरस संस्थान, दिल्ली विश्वविद्यालय, दिल्ली ।		3-5-1970
2. डॉ० वाई० के० सिन्हा, एम० बी० बी० एस०, बिहार विश्वविद्यालय पी० एच० डी० प्रिंसिपल, दरभंगा मेडिकल कालेज, सहरिया सराय ।		30-3-70

अतः अब केन्द्रीय सरकार एतद्वारा उक्त अधिनियम की धारा 3 की उप-धारा (1) के उपबन्धों का पालन करते हुए निदेश देती है कि डा० हरमेल सिंह, डा० ए० एस० पेंतल तथा डा० वाई० के० सिन्हा उक्त परिषद् के सदस्य बने रहेंगे ।

[सं० 4-26/69-एम०पी०टी०]

S.O. 3660.—Whereas the Central Government have, in pursuance of the provisions of clause (a) of sub-section (1) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956) nominated, in consultation with the Government of Mysore, Dr. H. G. Sattur, MBBS, MS., Director of Health and Family Planning Services, Ananda Rao Circle, Bangalore, to be a member of the Medical Council of India with effect from the 1st May, 1970;

And whereas, in pursuance of the provisions of clause (b) of sub-section (1) of section 3 of the said Act, Dr. A. Venugopal MS, FACS, FICS, FAMS, "Kensington" No. 464, Poonamallee High Road, Madras-10, has been elected by the University of Madras to be a member of the said Council with effect from the 27th April, 1970;

Now, therefore, in pursuance of the provisions of sub-section (1) of section 3 of the said Act, the Central Government hereby makes the following further amendment in notification of the Government of India in the late Ministry of Health No. 5-13/59-MI, dated the 9th January, 1960, namely:—

In the said notification:

- (i) under the heading "Nominated under clause (a) of sub-section (1) of section 3" for the existing entry against serial No. 12, the following entry shall be substituted, namely:—

"Dr. H. G. Sattur, MBBS, MS, Director of Health and Family Planning Services, Ananda Rao Circle, Bangalore";

- (ii) under the heading "Elected under clause (b) of sub-section (1) of section 3" for the existing entry against serial No. 3, the following entry shall be substituted, namely:—

"Dr. A. Venugopal, MS, FACS, FICS, FAMS, 'Kensington,' No. 464, Poonamallee High Road, Madras-10".

[No. F.4-26/69-MPT.]

एस० ओ० 3660 —यतः केन्द्रीय सरकार ने भारतीय चिकित्सा परिषद् अधिनियम, 1956 (1956 का 102) की धारा 3 की उप-धारा (1) के खण्ड (क) के उपबन्धों का पालन करते हुए, मैसूर सरकार के परामर्श से डा० एच० जी० सत्तूर, एम०बी०बी०एम०, एम०एस०, स्वास्थ्य एवं परिवार नियोजन सेवा के निदेशक, आनन्द राव सर्कल, बंगलौर, को 1 मई, 1970 से भारतीय चिकित्सा परिषद् के सदस्य के रूप में पुनः मनोनीत किया।

और, यतः उक्त अधिनियम की धारा 3 की उप-धारा (1) के खण्ड (ख) के उपबन्धों का पालन करते हुए, डा० ए० वैष्णोपाल, एम०एस०, एफ०सी०एस०, एफ०आई०सी०एम०, एफ०ए०एम०एस०, “केनसिंगटन नं० 464, पूनामल्ली हाई रोड, मद्रास-10, को 27 अप्रैल, 1970 से मद्रास विश्वविद्यालय ने उक्त परिषद् के सदस्य के रूप में निर्वाचित किया है;

अतः, अब केन्द्रीय सरकार एतद्द्वारा कथित अधिनियम की धारा 3 की उप-धारा (1) के उपबन्धों का पालन करते हुए भारत सरकार के भूतपूर्व स्वास्थ्य मंत्रालय की अधिसूचना संख्या 5-13/59 एम०आई० दिनांक 9 जनवरी, 1960 में और आगे संशोधन करती है, नामतः :-

उक्त अधिसूचना में;

- (i) “धारा 3 की उपधारा (1) के खण्ड (क) के अन्तर्गत मनोनीत” शीर्षक के अधीन क्रम संख्या 12 के सामने वर्तमान प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टि रखी जायेगी, नामतः :-

“डा० एच० जी० सत्तूर, एम०बी०बी०एम०, एम०एस०, स्वास्थ्य एवं परिवार नियोजन सेवाओं के निदेशक, आनन्द राव सर्कल, बंगलौर”;

- (ii) “धारा 3 की उपधारा (1) के खण्ड (ख) के अन्तर्गत मनोनीत” शीर्षक के अधीन क्रम संख्या 3 के सामने वर्तमान प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टि रखी जायेगी, नामतः :-

“डा० ए० वैष्णोपाल, एम०एस०, एफ०ए० सी०एस०, एफ०आई०सी०एस०, एफ०ए०एस०एम०, “केनसिंगटन” नं० 464, पूनामल्ली हाई रोड, मद्रास-10.”

[सं० एफ० 4-26/69-एम० पी० टी०]

ORDER

New Delhi, the 2nd June, 1970

S.O. 3661.—Whereas by the notification of the Government of India in the late Ministry of Health No. 16-14/59-MI, dated the 30th March, 1960 the Central Government has directed that the Medical qualification, “Doctor of Medicine” granted by the Baylor University School of Medicine (U.S.A.) shall be recognised medical qualification for the purposes of the Indian Medical Council Act, 1956 (102 of 1956);

And whereas Dr. R. G. Burrows who possesses the said qualification is for the time being attached to the Makunda Christian Medical Agricultural Joint Seva Mandal, P.O. Bazaricherra, Cachar District, Assam for the purposes of teaching and charitable work;

Now, therefore, in pursuance of clause (c) of the proviso to sub-section (1) of section 14 of the said Act, the Central Government hereby specifies—

(i) a further period ending with the 31st December, 1970; or

(ii) the period during which Dr. R. G. Burrows is attached to the said Makunda Christian Medical Agricultural Joint Seva Mandal, P.O. Bazaricherra Cachar, District, Assam whichever is shorter, as the period to which the medical practice by the aforesaid doctor shall be limited.

[No. F.19-4/70-MPT.]

R. MURTHI, Under Secy.

अदेश

नई दिल्ली, 2 जून 1970

एस० ओ० 3661:—यह भारत सरकार के मूलपूर्व स्वास्थ्य मंत्रालय की दिनांक 30 मार्च, 1960 की अधिसूचना संख्या 16-14-59 एस० आई० द्वारा केन्द्रीय सरकार ने निदेश दिया है कि भारतीय चिकित्सा परिषद अधिनियम, 1956 (1956 का 102) के प्रयोजनों के लिये बेलोर यूनिवर्सिटी स्कूल आफ मेडिसिन (यू० एस० ए०) द्वारा प्रदत्त “एम०डी०” नामक चिकित्सा अर्हता मान्यता-प्राप्त चिकित्सा अर्हता होगी ;

और यह: डा० आर० जी० बरोज को जिनके पास उक्त अर्हता है फिलहाल मकुन्द क्रिश्चियन मेडिकल ऐग्रीकल्चरल ज्वान्ट सेवा मंडल, पी० ओ० बजारी चेरा, काचर जिला, असम के साथ अध्यापन तथा धर्माई कार्य के प्रयोजनों के लिये लगाया गया है।

अतः अब उक्त अधिनियम की धारा 14 की उपधारा (1) के परन्तुक के खंड (ग) का पालन करते हुए केन्द्रीय सरकार एतद्वारा

- (1) 31 दिसम्बर, 1970 को समाप्त होने वाली एक और अवधि को; अथवा
- (2) डा० आर० जी० बरोज उक्त मकुन्द क्रिश्चियन मेडिकल ऐग्रीकल्चरल ज्वान्ट सेवा मंडल, पी० ओ० बजारी चेरा, काचर जिला, असम में सम्बद्ध रहने की अवधि को

जो भी कम हो, वह अवधि विनिर्दिष्ट करती है, जिसमें कि पूर्वोक्त डाक्टर की मेडिकल प्रैक्टिस सीमित होगी।

[सं० एफ० 19-4/70 एस० पी० टी०]

आर० मूर्ति,
अवर सचिव।

DEPARTMENT OF COMMUNICATIONS

(P. & T. Board)

New Delhi, the 26th October 1970

S.O. 3662.—In exercise of the powers conferred by sections 42 and 74 of the Indian Post Office Act, 1898 (6 of 1898), the Central Government hereby makes the following rules further to amend the Indian Post Office Rules, 1933, namely:

1. These rules may be called the Indian Post Office (Tenth Amendment) Rules, 1970.

2. In the Indian Post Office Rules, 1933, in sub-rule (1) of rule 215, in clause (a), for the words, letters and figures “1st April, 1970”, the words, letters and figures “15th July, 1970” shall be substituted.

[No. 20/4/70-CF.]

K. GOPALAKRISHNAN,
Dy. Director General (Mails).

संचार विभाग

(डाक-तार बोर्ड)

नई दिल्ली, 26 अक्टूबर 1970

का० आ० 3662:—भारतीय डाकघर अधिनियम, 1898 (1898 का 6) की धारा 42 और 74 द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए केन्द्रीय सरकार भारतीय डाकघर नियम 1933 में और आगे संशोधन करने के लिए एतद्द्वारा निम्नलिखित नियम बनाती है, अर्थात्:—

1. ये नियम भारतीय डाकघर, (दशम संशोधन) नियम, 1970 कहे जा सकेगे।
2. भारतीय डाकघर नियम 1933 के नियम 215 के उपनियम (1) में खण्ड (क) में "प्रथम अप्रैल 1970" शब्दों और अंकों के स्थान पर "15 बी जुलाई, 1970" शब्द और अंक प्रतिस्थापित किए जाएंगे।

[सं० 20/4/70-सी एफ०]

उप महानिदेशक (डाक) के० गोपालकृष्णन,

(P. & T. Board)

New Delhi, the 28th October 1970

S.O. 3663.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director-General, Posts and Telegraphs, hereby specifies the 1st December, 1970 as the date on which the Measured Rate System will be introduced in Gangtok Telephone Exchange, Sikkim.

[No. 5-67/70-PHB.]

(डाक-तार बोर्ड)

नई दिल्ली, 28 अक्टूबर 1970

एस० आ० 3663:—कम संख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किये गए 1951 के भारतीय तार नियमों के नियम 434 के खण्ड III के पैरा (क) के अनुसार डाक-तार महानिदेशक ने गंगटोक टेलीफोन केन्द्र में 1-12-70 से प्रमाणित दर प्रणाली लागू करने का निश्चय किया है।

[सं० 5-67/70-पी. एच० बी०]

S.O. 3664.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director-General, Posts and Telegraphs, hereby specifies the 1st December, 1970 as the date on which the Measured Rate System will be introduced in Muvattupuzha Telephone Exchange, Kerala Circle.

[No. 5-66/70PHB.]

D. R. BAHL,
Asstt. Director General (PHB).

एस० आ० 3664:—कम संख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किये गए 1951 के भारतीय तार नियमों के नियम 434 के खण्ड III के पैरा (क) के अनुसार डाक-तार महानिदेशक ने मुव्वाट्टुपुरा टेलीफोन केन्द्र में ता० 1-12-1970 से प्रमाणित दर प्रणाली लागू करने का निश्चय किया है।

[सं० 5-66/70 पी० एच० बी०]

डी० आर० बहल,
सहायक महानिदेशक (पी० एच० बी०)

MINISTRY OF PETROLEUM AND CHEMICALS AND MINES AND METALS**(Department of Mines and Metals)***New Delhi, the 31st October 1970*

S.O. 3665.—In exercise of the powers conferred by sub-sections (2) and (4) of section 17 of the Mines and Minerals (Regulation and Development) Act, 1957 (67 of 1957), the Central Government hereby cancels the notification of the Government of India in the late Ministry of Steel and Mines (Department of Mines and Metals) No. 11(9)/64-MII dated the 18th May, 1965.

[No. 11(9)/64-MII(MVI).]

A. SETHUMADHAVAN Under Secy.

पेट्रोलियम तथा रसायन और खान तथा धातु मंत्रालय

(खान तथा धातु विभाग)

नई दिल्ली, 31 अक्टूबर 1970.

एस० ओ० 3665:—खान और खनिज (विनियम और विकास) अधिनियम, 1957 (1957 का 67) की धारा 17 की उपधाराएँ (2) और (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते करते हुए केन्द्रीय सरकार, भारत सरकार के भूतपूर्वदस्तावेज और खान (खान तथा धातु विभाग) मंत्रालय की अधिसूचना सं० 11(9) 64 एम: 11, तारीख 18 मई, 1965 को एतद्वारा रद्द करती है।

[सं० 11(9)/64 एम 11(एम० 6)]

ए० सेतुमाधवन, अधीक्षक सचिव ।

MINISTRY OF EDUCATION AND YOUTH SERVICES**ARCHAEOLOGY***New Delhi, the 31st October 1970*

S.O. 3666.—Whereas the Central Government is of opinion that the archaeological site and remains specified in the Schedule attached hereto is of national importance.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Ancient Monuments and Archaeological Sites and Remains Act 1958 (24 of 1958), the Central Government hereby gives notice of its intention to declare the said archaeological site and remains to be of national importance.

Any objection made within two months after the issue of this notification by any person interested in the said archaeological site and remains will be considered by the Central Government.

[THE GAZETTE OF INDIA: NOVEMBER 14, 1970/KARTIK 4 23, 1892 5135
SEC. 3.)]

[No. F.4 1 '70-CAI(1) 1

S. S. TALWAR Under Secy.

शिक्षा तथा युवक सेवा मंत्रालय

(पुरातत्व)

नई दिल्ली, 31 अक्टूबर, 1970

एन० ओ० 3666.—यतः केन्द्रीय सरकार की राय है कि इससे संलग्न अनुसूची में विनिर्दिष्ट पुरातत्वोपस्थल और अवशेष राष्ट्रीय महत्व का है।

अतः, अब, प्राचीन स्मारक तथा पुरातत्वोपस्थल और अवशेष अधिनियम, 1958 (1958 का 24) का प्रांग 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा उक्त पुरातत्वोपस्थल और अवशेष को राष्ट्रीय महत्व का घोषित करने के अपने आशय की सूचना देती है।

इस अधिसूचना के जारी होने के पश्चात् दो मास के भीतर उक्त पुरातत्वोपस्थल और अवशेष में हिनबद्ध किसी व्यक्ति द्वारा किये गए किसी आक्षेप पर केन्द्रीय सरकार द्वारा विचार किया जाएगा।

अनुसूची

राज्य	जिला	तहसील/तालूक	पञ्चोत्तर
1	2	3	4
उत्तर प्रदेश	गोरखपुर	काशीपुर	काशीपुर
स्थल का नाम	संरक्षण के लिये सम्मिलित किये जाने वाले राज्यस्व प्लॉट सं० 1	संभाएं	स्वामित्व टिप्पणियाँ
5	6	7	8 9
समाविष्ट प्लॉट सं० 99	समाविष्ट प्लॉट सं० 100, 101, 101,	उत्तरः—सर्वेक्षण प्लॉट सं० 84, 473, और 542	(i) सर्वेक्षण प्लॉट सं० 469, 470, 474, 467, 468, 469, 468, 467, 468 पूर्वः—सर्वेक्षण प्लॉट सं० 520, 535 और 544 दक्षिणः—
470, 471, 472, 474, 475, 476	469, 470, 471, 472, 474, 475, 476, 477, 479, 480, 513, 514, 515, 516, 517, 518, 519, 536, 537, 538, 540 और 541 में	सर्वेक्षण प्लॉट सं० 465 481 और 512 पश्चिमः सर्वेक्षण प्लॉट सं० 102, 103, 105, 87, 86 और 85	(ii) सर्वेक्षण प्लॉट सं० 536 537, 538 539, और 540 मिचौड़ी विभाग के स्वामित्व में है , (iii) शेष प्राइवेट स्वामित्व में है , (iv) 39 एड माप का सर्वेक्षण प्लॉट सं० 471 ग्राम पंचायत के स्वामित्व में है और शेष 0.10 एकड़ माप प्राइवेट स्वामित्व में है ।
समाविष्ट काशीपुर टीला (गोब्रीमाना किले का स्थल)	541		

[म एफ 4/1/70 सं ए I I)]

ए० एस० तलवार, प्रधान सचिव ।

MINISTRY OF LABOUR, EMPLOYMENT AND REHABILITATION

(Department of Labour and Employment)

New Delhi, the 21st October 1970

S.O. 3667.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as The Colaba Central Co-operative Consumers' Wholesale and Retail Stores Limited, Hotel Majestic, Bombay-1, have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the first day of January, 1969.

[No. 8/154/69-PF.II.]

भार, रोजगार और पुनर्वास मंत्रालय

(श्रम और रोजगार विभाग)

नई दिल्ली, 21 अक्टूबर, 1970

क्र० आ० 3667.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि मेसर्स कोलाबा सेंट्रल कोऑपरेटिव कन्ज्यूम्स होलसेल एंड रिटेल स्टोर्स लिमिटेड, होटल मेजेस्टिक, मुम्बई-1 नामक स्थान स्थापन से सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किये जाने चाहियें ;

अतः, अब, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त अधिनियम के उपबंध उक्त स्थापन को एतद्वारा लागू करती है ।

यह अधिसूचना 1969 की जनवरी के प्रथम दिन को प्रस्तुत हुई समझी जायेगी ।

[सं० 8/154/69-पी० एफ०-2.]

S.O. 3668.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs. Daw and Brothers, 14, Raja Woodmunt Street, Calcutta-1 have agreed that the provisions of the employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the thirty-first day of August, 1969.

[No. 8/126/70/PF.II.]

क्र० आ० 3668.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि मेसर्स डा एंड ब्रदर्स, 14, राजा वुडमंट स्ट्रीट, कलकत्ता-1 नामक स्थापन से सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किये जाने चाहियें ;

अतः अब, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त अधिनियम के उपबन्ध उक्त स्थापन को एतद्वारा लागू करती है।

यह अधिसूचना 1969 के अगस्त के इक्कीसवें दिन को प्रवृत्त हुई समझी जाएगी।

[सं० 8/126/70-पी० एफ० 2.]

S.O. 3669.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as The All India Cottonseed Crushers' Association, Khetan Bhavan, 6th Floor, 188, J. Tata Road, Bombay-20 have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the first day of January, 1970.

[No. 8/137/70-PF.II(i).]

का० आ० 3669.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि मेसर्स दि आल इंडिया काटनसीड क्रशर्स एसोसिएशन, खेतान भवन, छठी मंजिल, 198 जे० टाटा रोड, मुम्बई-20 नामक स्थापन से सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि अधिनियम, 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किये जाने चाहिये ;

अतः, अब, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त अधिनियम के उपबन्ध उक्त स्थापन को एतद्वारा लागू करती है।

यह अधिसूचना 1970 की जनवरी के प्रथम दिन को प्रवृत्त हुई समझी जायेगी।

[सं० 8/137/70-पी० एफ० -2(i)]

S.O. 3670.—In exercise of the powers conferred by first proviso to section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, after making necessary enquiry into the matter, hereby specifies with effect from the 1st January, 1970 the establishment known as the All India Cottonseed Crushers' Association, Khetan Bhavan, 6th Floor, 188, J. Tata Road, Bombay-20 for the purposes of said proviso.

[No. 8/137/70-PF.II(ii).]

का० आ० 3670.—कर्मचारी भविष्य निधि अधिनियम 1952 (1952 का 19) की धारा 6 के प्रथम परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार इस विषय में आवश्यक जांच कर लेने के पश्चात् एतद्वारा दि आल इंडिया काटनसीड क्रशर्स एसोसिएशन, खेतान भवन, छठी मंजिल, 198 जे० टाटा रोड, मुम्बई-20 नामक स्थापन को प्रथम जनवरी, 1970 से उक्त परन्तुक के प्रयोजनों के लिये विनिर्दिष्ट करती है।

[सं० 8/137/70-पी० एफ० 2(ii).]

S.O. 3671.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Elac Foundry and Engineering Industries (Private) Limited, C-31, Industrial Estate, Guindy, Madras-32 have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the first day of July, 1969

[No. 8/174/69-PF.II.]

फा० आ० 3671.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि मेसर्स एलाक फाउण्ड्री एण्ड इंजीनियरिंग इंडस्ट्रीज (प्राइवेट) लिमिटेड सी-31 इन्डस्ट्रीयल एस्टेट, गुरुण्डी मद्रास-32, नामक स्थापन से सम्बन्धित नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि अधिनियम, 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किये जाने चाहिये ;

अतः, अब, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त अधिनियम के उपबन्ध उक्त स्थापन को एतद्वारा लागू करती है ।

यह अधिसूचना 1969 की जुलाई के प्रथम दिन को प्रवृत्त हुई समझी जाएगी ।

[सं० 8/174/69-पी० एफ०-2]

S.O. 3672.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Mail Order Sales Private Limited, 10th Floor, 15, Mathew Road, Bombay-4 have agreed that the provisions of the Employees' Provident Fund Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the 30th day of September, 1969.

[No. 8/164/69-PF.II(i).]

फा० आ० 3672.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि मेसर्स मेल ऑर्डर सेल्स प्राइवेट लिमिटेड, दसवीं मंजिल, 15, मैथ्यू रोड, मुम्बई-4 नामक स्थापन से सम्बन्धित नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि अधिनियम 1952, (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिये ;

अतः अब उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त अधिनियम के उपबन्ध उक्त स्थापन को एतद्वारा लागू करती है

यह अधिसूचना 1969 के सितम्बर के तीसरे दिन को प्रवृत्त हुई समझी जाएगी ।

[सं० 8/164/69-पी० एफ० 2(i)]

S.O. 3673.—In exercise of the powers conferred by first proviso to section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, after making necessary enquiry into the matter, hereby specifies with effect from the 30th September, 1969 the establishment known as Mail Order Sales Private Limited, 10th Floor, 15, Mathew Road, Bombay-4 for the purposes of the said proviso.

[No. 8/164/69-PF.II(ii).]

फा० आ० 3673.—कर्मचारी भविष्य निधि अधिनियम 1952 (1952 का 19) की धारा 6 के प्रथम परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार इस विषय में आवश्यक जांच कर लेने के पश्चात् एतद्वारा मेल ऑर्डर सेल्स प्राइवेट लिमिटेड दसवीं मंजिल,

15, मेयूरू रोड, मुम्बई-4 नामक स्थापन को 30 सितम्बर, 1969 से उक्त परन्तुक के प्रयोजनों के लिए विनिर्दिष्ट करती है।

[मं० 8/164/69 पी० एफ० 2 (11)]

S.O. 3674.—Whereas it appears to the Central Government that the employer and all the employees in relation to the establishment known as Messers Orkay Textiles Corporation; 24, Bamanji Master Road, Central Building No. 2, New Silk Bazar, Bombay-2 including its branch at Kurla Andheri Road, Saki Naka, Bombay-72 have agreed that the provisions of the Employees' Provident Funds Act 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the thirty first day of May, 1969.

[No. 8/127/70/PF.II(1).1]

का० प्र० 3674.—यह केन्द्रीय सरकार को यह प्रतीत होना है कि मेसर्स आरके टेक्स्टाइल्स कार्पोरेशन, 24, बामनजी मास्टर रोड, सेंट्रल बिल्डिंग संख्या 2, न्यू सिल्क बाजार, मुम्बई-2 नाम स्थापन, जिसमें इसको कुर्ला अंधेरी रोड, साकी नाका, मुम्बई-72 की शाखा सम्मिलित है, से सम्बद्ध नियोजक और सभी कर्मचारी इस बात पर सहमत हो गये हैं कि कर्मचारी भविष्य निधि अधिनियम 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किये जाने चाहिए,

अतः, अब, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त अधिनियम के उपबन्ध उक्त स्थापन को एतद्वारा लागू करती है।

यह अधिसूचना 1959 की मई के इकत्तीसवें दिन को प्रवृत्त हुई समझी जाएगी।

[सं० 8/127/70-पी० एफ० 2 (1).]

S.O. 3675.—In exercise of the powers conferred by first proviso to section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, after making necessary enquiry into the matter, hereby specifies with effect from the 31st May, 1969, the establishment known as Messrs Orkay Textiles Corporation, 24, Bamanji Master Road, Central Building No. 2, New Silk Bazar, Bombay-2 including its branch at Kurla Andheri Road, Saki Naka, Bombay-72 for the purposes of the said proviso.

[No. 8/127/70-PF. II (II).1]

न० प्र० 3675—कर्मचारी भविष्य निधि अधिनियम, 1952 (1952 का 19) की धारा 6 के प्रथम परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार इस विषय में आवश्यक जांच कर लेने के पश्चात् एतद्वारा मेसर्स आरके टेक्स्टाइल्स कार्पोरेशन, 24 बामनजी मास्टर रोड, सेंट्रल बिल्डिंग संख्या 2, न्यू सिल्क बाजार, मुम्बई-2, नामक स्थापन को जिसमें इसकी कुर्ला अंधेरी रोड, साकी नाका, मुम्बई-72 की शाखा सम्मिलित है, 31 मई, 1969 से उक्त परन्तुक के प्रयोजनों के लिए विनिर्दिष्ट करती है।

[संख्या 8/127/70-पी० एफ० -2(11)]

New Delhi, the 24th October 1970

S.O. 3676.—Whereas the Hindustan Shipyard Limited, Vishakhapatnam, (hereinafter referred to as the said establishment), was exempted under the provisions of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), with effect from the 1st November, 1952, from the operation of all the provisions of the Employees Provident Funds Scheme, 1952, by virtue of the Order of the Government of India in the late Ministry of Labour No. P.F. 509/Misc./L, dated the 5th May, 1953;

And whereas in pursuance of the said order the said establishment has been paying monthly inspection charges with effect from the date of exemption at such rates as prescribed by the Central Government from time to time and has also abided by and fulfilled all the terms and conditions of the said Order of exemption;

Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of section 17 of the said Act, the Central Government hereby notifies that the said establishment has been exempted from the operation of all the provisions of the said scheme, subject to the conditions specified in the Schedule annexed hereto.

THE SCHEDULE

1. The employer shall submit such returns to the Regional Provident Fund Commissioner as the Central Government may, from time to time, prescribe.
2. The employer shall furnish to each employee an annual statement of account or Pass Book.
3. All expenses involved in the administration of the fund including the maintenance of accounts, submission of accounts and returns, transfer of accumulations, payment of inspection charges etc., shall be borne by the employer.
4. The employer shall display on the notice board of the establishment a copy of the rules of the fund as approved by the appropriate Government and, as and when amended, alongwith a translation of the salient points thereof in the language of the majority of the employees.
5. Where an employee who is already member of the Employees' Provident Fund (Statutory Fund) or the Provident Fund of another exempted establishment is employed in his establishment the employer shall immediately enroll him as a member of the Fund of the establishment, and accept the past accumulations in respect of such employee and credit to his account.
6. The employer shall enhance the rate of Provident Fund contribution appropriately if the rate of provident fund contributions for the class of establishment in which his establishment falls is enhanced under the Employees' Provident Funds Act, 1952, so that the benefits under the Provident Fund Scheme of the establishment shall not become less favourable than the benefit provided under the Employees' Provident Funds Act, 1952.
7. The establishment shall submit an audited balance sheet of its provident fund every year to the Regional Commissioner within 3 months of the close of the year.
8. Notwithstanding anything contained in the provident fund rules of the establishment the amount payable to any member, upon his ceasing to be an employee of the establishment or transferable on his transfer to any other establishment by way of employer's and employees' contributions plus interest thereon taken together with the amount, if any, payable under the Gratuity/Pension Rules, be less than the amount that would be payable as employer's and employees' contributions plus interest thereon, if he were a member of the Provident Fund under the Employees' Provident Funds Scheme, 1952, the employer shall pay the difference to the member as compensation/special contribution.
9. No amendment of the rules of the provident fund shall be made without the previous approval of the Central Provident Fund Commissioner. Where any amendment is likely to affect adversely the interests of the employees, the Central Provident Fund Commissioner shall, before giving his approval, give a reasonable opportunity to the employees to explain their point of view.
10. The employer shall pay to the Regional/State Commissioner inspection charges payable, failing which damages shall be paid at a rate fixed by the Central Government from time to time.

Memorandum

Messrs Hindustan Shipyards Limited, Vishakhapatnam, was covered under the Employees' Provident Funds Act, 1952, under the scheduled head "Electrical,

mechanical or general engineering products" with effect from the 1st November, 1952.

2. The establishment applied for exemption under section 17 of the Employees' Provident Funds Act and the Government of India in the then Ministry of Labour issued an order *vide* letter No. P.F. 509/Misc./L, dated the 5th May, 1953, that since the Company was agreeable to amend the Provident Fund Rules and abide by the conditions of exemption, the Regional Provident Fund Commissioner was being directed to treat the Company as an exempted one. The exemption would be operative from the 1st November, 1952. It further stated that the management was required to pay monthly Inspection Charges @ 3¼ per cent on total monthly contributions by the employer and employees of the factory with effect from the date of exemption. Formal notification was to be issued on receipt of the amended Rules of the Company.

3. The relevant amendments were carried out by the management in their Provident Fund Rules and the Government of India on examining the Provident Fund Rules of the Company in consultation with the Central Provident Fund Commissioner and the Ministry of Law, have come to the conclusion that the above establishment fulfilled the conditions for grant of exemption as laid down in the then Ministry of Labour letter of 5th May, 1953, referred to above. Though the establishment has already been treated as an exempted establishment, it has however, been noticed that a formal notification for exemption has not been issued in this case.

4. Now while issuing a formal notification the Government of India hereby makes it clear that the interests of no person would be adversely affected by reason of this formal notification taking effect from 5th May, 1953.

[No. 13/18/67-PF. II.]

DALJIT SINGH, Under Secy

नई दिल्ली, 24 अक्तूबर, 1970

का० आ० 3676—यतः हिन्दुस्तान शिपयार्ड लिमिटेड, विशाखापटणम (जिसे इसमें इसके पश्चात् उक्त स्थान कहा गया है) को कर्मचारी भविष्य निधि स्कीम, 1952 के सभी उपबन्धों के प्रवर्तन से कर्मचारी भविष्य निधि अधिनियम, 1952 (1952 का 19) की धारा 17 की उपधारा (1) के उपबन्धों के अधीन भारत सरकार के भूतपूर्व श्रम मंत्रालय के आदेश संख्या पी० एफ० 509/मिल्स०/एल०, तारीख 5 मई, 1953 के आधार पर प्रश्न नवम्बर 1952 से छूट दी गई थी ;

और यतः उक्त आदेश के अनुसरण में उक्त स्थापन छूट की तारीख से समय समय पर केन्द्रीय सरकार द्वारा विहित की गई दरों पर मासिक निरीक्षण प्रभार सन्दन करता रहा है और उसने छूट के उक्त आदेश के सभी निबन्धनों और शर्तों का पालन किया है और उन्हें पूरा किया है ;

अतः, अब उक्त अधिनियम, की धारा 17 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा सूचित करती है कि उक्त स्थापन को उक्त स्कीम के सभी उपबन्धों के प्रवर्तन से, इनसे उपाबद्ध अनुसूची में विनिर्दिष्ट शर्तों के अधीन छूट दे दी गई है ।

अनुसूची

1. नियोजक, प्रादेशिक भविष्य निधि प्राप्ति को ऐसी विवरणियां, जो केन्द्रीय सरकार द्वारा समय समय पर विहित की जाएं, प्रस्तुत करेगा ।
2. नियोजक, प्रत्येक कर्मचारी को लेखों का वार्षिक विवरण या पास-बुक देगा ।

3. निधि के प्रशासन में अन्तर्बलित सभी व्यय, जिसमें लेखाग्रों का बनाये रखना, लेखाग्रों और विवरणियों का प्रस्तुतीकरण, सच्यों का अन्तरण, निरीक्षण प्रभार का सन्दाय आदि सम्मिलित हैं, नियोजक द्वारा वहन किए जाएंगे।
4. नियोजक, समुचित सरकार द्वारा यथा अनुमोदित, जैसे ही और जब कि सशोधित, निधि के नियमों की एक प्रति और उनकी मुख्य बातों को कर्मचारियों के बहुमत की भाषा में अनुवाद के साथ स्थापन के सूचना पट्टे पर प्रदर्शित करेगा।
5. जहां कोई कर्मचारी, जो पहले ही कर्मचारी भविष्य निधि (कानूनी निधि) का या किसी अन्य छूट प्राप्त स्थापन की भविष्य निधि का सदस्य है, उसके स्थापन में नियोजित किया जाए वहां नियोजक उसे स्थापन की निधि के सदस्य के रूप में तुरन्त अध्यवेक्षित करेगा और ऐसे कर्मचारी के पिछले सच्यों को प्रतिगृहीत करेगा और उसके खाते में जमा करेगा।
6. यदि उस वर्ग के स्थापनों के लिए, जिसमें उसका स्थापन आता है, भविष्य निधि के अभिदाय की दर में कर्मचारी भविष्य निधि अधिनियम, 1952, के अधीन वृद्धि कर दी जाती है तो नियोजक भविष्य निधि अभिदाय की दर में समुचित रूप से वृद्धि करेगा ताकि स्थापन की भविष्य निधि स्कीम के अधीन फायदे कर्मचारी भविष्य निधि अधिनियम, 1952 के अधीन उपबन्धित फायदों से कम न रहे।
7. स्थापन प्रति वर्ष अपनी भविष्य निधि का एक संपरीक्षित तुलनपत्र वर्ष की समाप्ति के 3 महीने के भीतर प्रादेशिक आयुक्त को प्रस्तुत करेगा।
8. स्थापन के भविष्य निधि नियमों में किसी बात के होते हुए भी यदि किसी सदस्य को, उसके स्थापन का कर्मचारी न रहने पर दे या उसके किसी अन्य स्थापन में अन्तरण पर अन्तरणीय उपदान/पेंशन नियमा के अधीन देय रकम, यदि कोई हो, सहित कर्मचारी और नियोजक के अभिदायो तथा उन पर व्याज की रकम उस रकम से कम हो, जो उसके कर्मचारी भविष्य निधि स्कीम, 1952 के अधीन भविष्य निधि का सदस्य होने पर देय होता तो नियोजक सदस्य को अन्तर का सन्दाय प्रतिकर/विशेष अभिदाय के रूप में करेगा।
9. भविष्य निधि नियमों में कोई भी संशोधन केन्द्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के बिना नहीं किया जायगा। जहां किसी संशोधन का कर्मचारियों के हितों पर प्रतिकूल प्रभाव पड़ना सम्भाव्य हो, केन्द्रीय भविष्य निधि आयुक्त अपने अनुमोदन से पहले कर्मचारियों को अपना दृष्टिकोण समझाने के लिए युक्तियुक्त अवसर देगा।
10. नियोजक, देय निरीक्षण प्रभारों का सन्दाय प्रादेशिक/राज्य आयुक्त को करेगा, जिसके न करने पर केन्द्रीय सरकार द्वारा समय समय पर नियत दर पर नुकसानी का सन्दाय किया जायगा।

स्थापन

मैसर्स हिन्दुस्तान शिपयार्ड लिमिटेड, विशाखापटनम 1-11-1952 से कर्मचारी भविष्य निधि अधिनियम, 1952 के अधीन अनुसूचित शोषक "विद्युत, यांत्रिक या माध्याम इंजीनियरी उत्पाद" के अन्तर्गत आता था।

2. स्थापन ने कर्मचारी भविष्य निधि अधिनियम की धारा 17 के अन्तर्गत छूट के लिए आवेदन दिया और भारत सरकार के तत्समय श्री मंत्रालय ने पत्र संख्या ३१० एफ० 509/गिस्स/एल

तारीख 5 मई, 1953 द्वारा एक आदेश जारी किया कि क्योंकि कम्पनी भविष्य निधि नियमों में संशोधन करने और छूट की शर्तों का अनुपालन करने के लिए सहमत हो गई है, प्रादेशिक भविष्य निधि आयुक्त को निदेश दिया जा रहा है कि इस कम्पनी को छूट प्राप्त कम्पनी माने। छूट 1-11-1952 से प्रवर्तित होगी। यह भी कहा गया था कि छूट की तारीख से कारखाने के नियोजक और कर्मचारियों के कुल मासिक अभिदाय पर 3/4 प्रतिशत के हिसाब से मासिक निरोधन प्रभार का सन्दाय करने की प्रवन्धन से अपेक्षा है। औपचारिक अधिसूचना कम्पनी के संशोधन नियम होने प्राप्त होने पर जारी करनी थी।

3. प्रवन्धन न अपन भविष्य निधि नियमों में संशोधन संशोधन कर लिए और केन्द्रीय भविष्य निधि आयुक्त और विधि मंत्रालय के परामर्श से कम्पनी के भविष्य निधि नियमों को परामर्श कर लेने पर भारत सरकार इस निश्चय पर पहुंची है कि उपरोक्त स्थापन तत्कालीन श्रम मंत्रालय के ऊपर निर्दिष्ट 5 मई वाले पत्र में अभिदायित छूट देने की शर्त पूरी करता है। यद्यपि स्थापन को पहले ही छूट प्राप्त स्थापन मान लिया गया है, तथापि यह मालूम हुआ है कि इस मामले में छूट के लिए औपचारिक अधिसूचना जारी नहीं की गई है।

4. अब औपचारिक अधिसूचना जारी करते हुए भारत सरकार एतद्वारा यह स्पष्ट करती है कि इस औपचारिक अधिसूचना के 5 मई, 1953 से प्रभाव होने से किसी भी व्यक्ति के हित पर प्रतिकूल प्रभाव नहीं पड़ेगा।

[मंख्या 13/18/67-पो० एफ०-II]

दलजीत सिंह, अवर सचिव।

(Department of Labour and Employment)

New Delhi, the 26th October 1970

S.O. 3677.—In exercise of the powers conferred by sub-section (1) of section 5 of the Mines Act, 1952 (35 of 1952), and in supersession of the notification of the Government of India in the late Ministry of Labour and Employment S.O. No. 1914, dated the 20th June, 1966, the Central Government hereby appoints Shri N. P. B. Nair, Deputy Coal Mines Welfare Commissioner to be an Inspector of Mines subordinate to the Chief Inspector for coalfields in India.

[No. A-12026/12/70-MIL.]

C. R. NAIR, Under Secy.

(श्रम और रोजगार विभाग)

नई दिल्ली, 26 अक्टूबर 1970

का० प्रा० 3677.—खान अधिनियम, 1952 (1952 का 35) की धारा 5 की उपधारा (1) द्वारा शक्तियों का प्रयोग करते हुए और भारत सरकार के भूतपूर्व श्रम और रोजगार मंत्रालय की अधिसूचना का० प्रा० सं० 1914 तारीख 20 जून, 1966 को अधिकृत करते हुए, केन्द्रीय सरकार एतद्वारा श्री एन० पी० बी० नायर, कोयला खान कल्याण उपायुक्त को भारत में कोयला क्षेत्रों के लिए मुख्य निरोधक के अधीनस्थ खान निरोधक नियुक्त करती है।

[सं० ए-12026/12/70 एम० II]

सी० प्रा० नायर, अवर सचिव।

(Department of Labour and Employment)

New Delhi, the 28th October 1970

S.O. 3678.—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to the Bombay Port Trust, Bombay and their workmen, which was received by the Central Government on the 20th October, 1970.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY

REFERENCE No. CGIT-8 OF 1968

PARTIES:

Employers in relation to the Bombay Port Trust, Bombay.

AND

Their workmen.

PRESENT:

Shri A. T. Zambre, Presiding Officer.

APPEARANCES:

For the employers—Shri R. K. Shetty, Deputy Legal Adviser.

For the workmen—Dr. S. Maitra, General Secretary, Bombay Port Trust General Workers' Union.

STRT. Maharashtra.

INDUSTRY: Major Ports & Docks.

Bombay, dated the 30th September 1970

AWARD

The Government of India Ministry of Labour Employment and Rehabilitation (Department of Labour and Employment) have by their Order No. 28(22)/58-LRII, dated 19th April 1968 have referred to this Tribunal for adjudication an industrial dispute existing between the employers in relation to the Bombay Port Trust, Bombay and their workmen represented by the Bombay Port Trust General Workers' Union, Bombay in respect of the matters specified in the following schedule:—

SCHEDULE

1. Whether the Masters of harbour tugs in the Port Department and of the Masters A grade of the Dredging flotilla of the Bombay Port Trust are entitled to claim overtime at twice the rate of wages including allowances for work done in excess of 9 hours on any date or 48 hours in any week. If not, to what relief are they entitled?

2. The employees involved in this reference are the Masters A grade, employed by the Bombay Port Trust on the various vessels in the harbour. These employees are the members of the Bombay Port Trust General Workers' Union which has by its statement of claim contended that all the Masters employed by the Bombay Port Trust excluding the A grade employees involved in this reference are governed under the Minimum Wages Act and rules framed there under and were paid overtime wages at twice the rate of their total emoluments but only the Masters A grade were denied the benefits. Overtime working for the marine workers was more or less unavoidable on account of the special circumstances and the nature of the work. A tug is employed to tow a ship and while so towing it is neither practically nor possible for the tug to stop towing the ship to change shift and the employers cannot avoid retaining such employees on duty beyond their working hours and the payment of overtime allowances to such category under the circumstances has become a permanent feature. But if in the method of payment and in the rate of such payment discrimination is introduced and persons doing the same type of job or undertaking comparatively more risk and higher responsibility are not paid remuneration which is commensurate with their duties heart burning amongst the workmen cannot be avoided. It was further contended that the anomaly had crept in because the provisions of the Minimum Wages Act were brought into force for the Port Trust employees in 1954 at which time the employers had no bigger vessels and therefore there was no designation of Master A grade on the scale of Rs. 435—575. It was alleged that the employers were giving overtime charges to the Engineer-in-charge of the water boat "Nirma'a" at twice the rate of his total emoluments and the same policy should be adopted in respect of the Masters A grade and they should be awarded overtime wages at that rate.

3. The employers, the Trustees of the Port of Bombay have by their written statement opposed the reference on various grounds. First it has been contended that having regard to the provisions of section 2 (k) of the Industrial Disputes Act the present dispute was not an industrial dispute but it was an individual dispute. It was alleged that the workers involved in the reference were the masters of the harbour docks. They were supreme commanders of the vessels and were supervisors drawing more than Rs. 500/- per mensem and they were not workmen under the Act and this Tribunal has no jurisdiction.

4. The employers have admitted that the Masters other than the Masters of Harbour Tugs were notified under the Minimum Wages Act and consequently the rules framed under the Act were applicable to them but it was contended that those masters in the lower grade were paid overtime wages at double the rate of their contractual wages although they were not entitled to such payments under rule 25 of the Minimum Wages Act. It is alleged that the employees covered by the Minimum Wages Act and the rules framed thereunder are not entitled to be paid overtime under rule 25 of the Minimum Wages (Central) Rules if their total contractual emoluments were higher than the wages notified by the Government and at best such employees would be entitled to get overtime wages under the contract of service which is at the single rate of basic pay in the Bombay Port Trust. There were other contentions and even on merits it was prayed that the Masters of the Harbour Tugs involved in the reference were not entitled to claim overtime wages at double the rate and they were not entitled to any relief.

5. After these statements filed by the parties the reference was fixed for hearing on various occasions but every time it was required to be adjourned for some reason or the other and when it was fixed for hearing on the 25th September 1970 Dr. S. Maitra the General Secretary of the Bombay Port Trust General Workers Union gave purshis that he desired a negotiated settlement of the dispute and did not wish to prosecute the said reference and it should be dealt with by the Tribunal as such and he did not argue any of the issues on the merits. Shri Shetty, the Deputy Legal Adviser of the Bombay Port Trust has argued that though the union has withdrawn from the proceedings the Tribunal shall have to decide the reference on its merits and has mainly contended that the employees involved in the reference were not workmen under the Act and the reference was not maintainable.

6. The employers have in their written statement produced a statement showing the wages received by the Masters every month. They are in the scale of pay of Rs. 435—20—575. The management have given a table showing the wages of these employees for eight hours work and for also twelve hours work. It shows that the total remuneration even for eight hours work is more than 750 and it cannot be disputed that they are in receipt of more than Rs. 500 per month. They are in overall charge of the vessels and even from the duties mentioned in the statement of claim filed by the union it is clear that they are in command of the tug. Shri Shetty has argued that the union has in its statement of claim admitted that the Masters are working in a supervisory capacity and there is no question of their being workmen under the Act. The employers have specifically contended that the employees were not workmen as they were in receipt of Rs. 500 per month and were working in a supervisory capacity. The union has not filed any rejoinder and these allegations were not also specifically denied. Dr. Maitra has by the purshis withdrawn from the proceedings and has not led any evidence and it shall have to be held that it has not been proved that the employees who are the tug masters are workmen under the Act.

7. In view of my above finding it shall have to be held that the reference is not maintainable and this Tribunal will have no jurisdiction and the employees are not entitled to any relief. Hence my award accordingly.

No order as to costs.

A. T. ZAMBRU,
Deputy Mag. Officer,
Central Government Industrial Tribunal
Bombay.

New Delhi, the 30th October 1970

3678—In pursuance of Section 14 of the Industrial Disputes Act, 1947, (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal Bombay, in the industrial dispute between the employers in relation to the Fort Trust, Bombay and their workmen, which was received by the Central Government on the 23rd October, 1970

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY

Case No. 10-IT-19 of 1966.

Part I

Employers in relation to the Bombay Port Trust, Bombay, and their workmen represented by the Bombay Port Trust General Workers' Union

Part II

Sri V. I. Zambhaidar, Presiding Officer

Part III

Shri S. K. Shetye, Deputy Legal Adviser

Shri D. C. Maitra, General Secretary, BPT General Workers' Union

2 Shri S. K. Shetye, General Secretary, BPT employees

Union

Shri V. I. Zambhaidar

INDUSTRY Major Ports & Docks

Bombay, dated 30th September, 1970

AWARD

The Government of India, Ministry of Labour, Employment & Rehabilitation, Department of Labour, Enrolment by their C. O. No. 2 (2) 63-LRM dated 14th August 1968 have referred to this Tribunal the industrial dispute existing between the employers in relation to the Fort Trust & their workmen represented by the Bombay Port Trust General Workers' Union in respect of the matters specified in the following schedule

SCHEDULE

Whether the demand for a salary hike for the three workmen Sanab and Chandrakant S. Sawant and the two workmen Dattabhai and Dattabhai who had volunteered to be appointed as Stokers against the vacancies caused by the termination of service of the substitute stokers should be placed on the seniority list of Stokers below the substitute stokers from the 'A' list who were absorbed in the vacancies of stoker but above the substitute stokers from the 'B' list who were also absorbed in the vacancies of stoker is justified? If so what should be their respective position in the seniority list of stokers in the said Department?"

2 The above schedule will show that the dispute pertains to the priority of the three workmen Lascars who had volunteered and who were appointed as stokers vis-a-vis the substitute stokers from the two lists and the background under which the present dispute has arisen may be stated in brief as follows:—

3. The Bombay Port Trust General Workers' Union had in the year 1960 made serious complaints and representation about corruption and the method of recruitment of substitutes in the Port Department. Formerly there was a common list of the substitutes of the employees of all the categories of workmen and the union had made a grievance that the list of substitutes was allowed to grow disproportionately and the same should be divided and there should be separate lists of substitutes for the different sections of the Port Department and permanent jobs be given to the permanent substitute from the group concerned. After these complaints the Trustees had called for the report of the Inter-Departmental Committee and after considering the report and discussing the representations the Port Trust issued certain instructions regarding the A and B lists of substitutes and their absorption in service under their letter dated 21st September 1960 and from then onwards the lists were maintained accordingly.

4 A large number of Pakis and nationals who were employees in the Bombay Port Trust were refused permission by Government to renew their passports in

the year 1965 and hence they were discharged by the Port authorities. About eighty of them were employed in the Port Department and the resultant vacancies in the posts of stokers were to be filled in immediately and the Deputy Conservator had filled in vacancies by appointing the substitute stokers from the A and B lists and from other applicants. The three workmen involved in this reference were from the cadre of permanent lascars working in the Port Department. After the vacancies caused by the Pakistani Nationals were notified the three workmen made applications to be appointed as stokers. Their applications were considered and they were posted as stokers but they were placed below the substitute stokers who were appointed from the substitutes lists. They raised a dispute that they were permanent employees of the Port Trust and thus were entitled to get seniority over the substitutes from the B list and hence this reference.

5. The B.P.T. General Workers' Union of which the three workmen are the members has by its statement of claim contended that after the discharge of the Pakistani nationals working in the Port Department the Deputy Conservator had recruited the substitutes from the A and B lists and had committed breach of the rules of recruitment of substitutes laid down by the Chairman of the Bombay Port Trust. It was contended that the substitutes on either of the lists were not the employees of the Bombay Port Trust. They were only working against the leave vacancies and it was not open to the substitutes in the A and B lists to claim appointments against permanent vacancies as a matter of right. The three workmen who were working as permanent lascars had long years of service to their credit in permanent capacity and had opted for the post of stokers and they did not lose their continuity of service and were not deprived of any benefit that they were enjoying as permanent non-scheduled employees of the Bombay Port Trust. They were superior in status to the employees such as the substitutes and cannot be made junior to the substitutes who were appointed from the two lists. It was contended that as a matter of fact all the permanent employees who were working as lascars and who were allowed to opt as stokers should have been ranked senior to all substitutes irrespective of whether they were from the A or B list and accordingly the three workmen are entitled to claim seniority over them. However taking into consideration the fact that the substitutes in the A list were to be appointed against permanent posts the three workmen had not claimed seniority to the substitutes from the A list but claimed seniority over the stokers appointed from the B list and the Bombay Port Trust was not justified in placing the three workmen below the stokers appointed from the B list.

6. The employers have by their written statement denied the allegations and have contended that the 70 vacancies in the categories of stokers caused by the discharge of the Pakistani nationals were to be filled in immediately and hence applications were invited and even the substitutes from the A and B list were appointed. But the number was not sufficient and hence a circular dated 15th July 1965 was issued permitting the employees of the department to apply for their appointment as stokers under certain conditions. It was made clear in the circular that the employees who expressed a desire to be transferred as stokers would rank below the substitute stokers who would be made permanent earlier and that no claim for seniority would be entertained on account of years of service. The three workmen had accepted these conditions and now it is not open to the workers to question the seniority. It was further contended that the Deputy Conservator had correctly fixed the seniority of the workers placing the names of the disputants in the seniority list below the B list as they themselves desired the transfers of their own accord to the posts of stokers. It has been further contended that the instruction rules contained in the letter dated 21st September 1960 were issued because of the complaints and representations made by the B.P.T. General Workers' Union. It was the demand of the union that all permanent jobs should be given to the senior most substitutes from the groups concerned and the present demand of the union was contrary. The three workmen were transferred as stokers on their request and not on account of the exigencies of the Port Trust work and when the employees demand transfer on their own they are always placed at the bottom of the list of the relevant category of the section concerned and the three workmen are not entitled to any relief.

7. The parties have not led any oral evidence but the employers have produced a number of documents which have been accepted and exhibited by consent of the other side. According to the reference order the workmen were represented by the Bombay Port Trust General Workers' Union and the General Secretary of this union Dr. S. Maitra argued the case on behalf of the union. But on the day of hearing the Bombay Port Trust Employees' Union made an application that the three workmen involved in the reference wanted their union to appear in the proceeding on their behalf and they should be made a party.

As the application was made on the last day of hearing the union was not made a party but Sri Shetye the General Secretary was permitted to argue the matter on behalf of the workmen. He did not want to lead any evidence and has supported the contentions raised by the Bombay Port Trust General Workers Union and the question is whether considering the material before me the three workers are entitled to claim seniority in the list of stokers.

8. It is not in dispute that the three workmen were in the employ of the B.P.T. and were working as permanent lascars and on the termination of service of the Pakistani nationals who were working as stokers the Bombay Port Trust wanted to fill in the vacancies and invited applications. In the notice dated 8th July 1965 (Exhibit E-1) it was mentioned that the notice was meant for applicants who were not in Port Trust employment. It appears that after this notice some of the Port Trust Employees also made applications and the authorities issued a circular dated 15th July, 1965 informing the Bombay Port Trust employees the conditions under which their applications for the change of category to the post of stoker would be accepted.

9. It is also not in dispute that in the year 1960 the Bombay Port Trust authorities framed rules and issued instructions about recruitment of substitutes and these instructions have been published under their letter dated 21st September 1960. According to these instructions it is clear that the list of substitutes would be split up and separate lists of substitutes would be maintained for (a) shore, (b) flotilla, and (c) head office. It is also clear from instruction No. 5 that the list of the substitutes of the same category would be split up into two parts viz., A and B. The total number of substitutes in category 'A' was not to exceed 150 while there was no such restriction in category B. It is not in dispute that from this time onwards separate lists of substitutes for different categories of workers were maintained in two parts and at the time when the Pakistani nationals were discharged there was a stokers list containing 41 substitutes in the two parts. Part A included substitutes Nos. 1 to 23 and part B 23 to 41. The relevant portion of rule No. 5 runs as follows:—

"The present lists of substitutes will be split up into two viz., Category A and category B. The total number of substitutes in category A will not exceed 150. No one in category B will be appointed so long as a person in category 'A' is available. In making appointments the Trust's orders regarding percentage of scheduled castes and tribes will be observed priority being (i) category 'A' (ii) category B (iii) outsiders according to a list maintained after calling applications. If no one is available under (iii) the vacancy will be filled by a non-scheduled caste or tribe person from category 'A'".

From this it is clear that substitutes included in the 'A' list were to be given first preference and after exhausting that list substitutes from the B list were to be appointed.

Rule No. 7 reads as follows:—

"Permanent (including leave preparatory to retirement) vacancies will be filled in accordance with seniority on the substitute list."

The Deputy Conservator has filed in the vacancies of stokers by appointing the 41 substitutes in the two lists and the rules do not show that even a permanent employee of the Bombay Port Trust working in other category would have any preference to substitutes for appointment in the different categories and the instructions issued by the chairman do not support the claim of the three workmen concerned.

10. I have already stated that the B.P.T. General Workers' Union had made a grievance about the wrong methods of recruitment of Substitutes in the Port Department. The employers have produced their complaint and their demands dated 10th March 1960 and paragraphs 6 and 7 show that it was the demand of the union that the permanent jobs should given to the senior-most substitutes from the groups concerned. In demand No. 6 they have stated:—

"The substitutes can be given the option of choosing a particular group according to his past experience. Once these lists are finalised the employment should be offered strictly in order of seniority based on 1st date of entrance in Port Trust service."

It will be further clear from paragraph 7 that the union wanted the authorities to give preference to the substitutes. They have stated:—

"Finally all permanent jobs should be given to the permanent substitutes from the groups concerned."

After considering these demands the Bombay Port Trust had issued instructions in their letter dated 21st September, 1966 and in my opinion the appointment of the 41 substitutes as stokers in preference to other applicants whether permanent employees or outsiders was in accordance with the instructions and quite proper.

11. Shri Maithra the General Secretary of the B.P.T. General Workers Union has argued that a substitute is defined in section II 4(ii) of the Rules and Regulations for non-scheduled staff of the Bombay Port Trust as a person who is engaged to work in place of a permanent or temporary employee or probationer who is temporarily absent and such person has no status and he cannot be given preference to an applicant who is in the permanent employ of the Bombay Port Trust. Sri Shetty has argued that in this dispute the main question is as to who has a better claim to the post of stoker between a permanent employee and a substitute. However, it cannot be disputed that even according to the Bombay Port Trust Rules and Regulations even though the substitute is not in continuous employment under the rule he has got the status of an employee of the Bombay Port Trust. Clause II 4 of the rules and regulations for non-scheduled staff lists the following non-scheduled staff.

- (a) Permanent employee
- (b) Temporary employee
- (c) probationer
- (d) substitute

and the list will show that these substitutes are being employed since the year 1958 and the contention that these substitutes have absolutely no claim does not stand to reason.

12. It is also clear that from the year 1960 onwards there were different lists of substitutes in different categories. Lists A and B are the lists of the stokers from the year 1960 onwards and it is clear that these substitutes have worked merely as stokers and not in any other capacity. Even though the lascars are permanent employees and they are stokers in that category there is nothing to show that they have got better claim in respect of the work. Merely because the three workers were working as permanent lascars would not be sufficient to give them seniority in other sections, categories and in these other categories and sections they will have to be treated on a par with the stokers and the substitutes with experience have definitely a superior claim.

13. It is significant to remember that the lascars and stokers are different categories of workers and have different channels of promotion. The employers have produced at exhibit E-2 the scales of pay and the channels of promotion in different categories. It shows that a lascar on promotion from one post to another can be finally appointed as a Master and a stoker can be appointed as a M.E. driver etc. It is further significant to note that the Bombay Port Trust had by a memorandum dated 15th February 1962 issued a circular about the circumstances and the conditions regarding the change of categories. The circular reads:—

"The flotilla, the shore and the office cadres are separate with separate channels of promotion and no migration from cadre to another or a criss-crossing of the channel of promotion is permissible. Accordingly if a permanent or temporary employee in one cadre desires a transfer to another he may be permitted the transfer subject to his being placed at the bottom of the relevant substitute list or lists (at the bottom of 'A' list or where two lists exist at the bottom of 'B' list) and take his chance in accordance with his seniority in the substitute list in which he is placed."

In my opinion this circular clearly answers the objections raised by the unions in this reference. It is not in dispute there is what is called a sectional seniority and if a permanent lascar on change of category becomes a stoker and is given a benefit of his previous service he will be unfairly overriding the claims of other stokers and such criss-crossing will cut at the root of the principle of sectional seniority and even though the three employees were permanent lascars they have

to be placed below the substitutes in the two lists and I do not think that the Deputy Conservator has acted improperly in placing them below the two lists.

14. Considering the complaint made by the B.P.T. General Workers' Union in 1960 and the decisions arrived at it shall have to be held that the B.P.T. General Workers' Union had based its claim on wrong assumptions. It is significant to remember that in their statement of claim paragraph 13 they have stated:—

“.....it was not open to (A) or (B) category list substitutes to claim appointments against permanent vacancies as a matter of right under the Industrial Disputes Act”.

I have already referred to paragraphs 6 and 7 of the representations made by the union which show that they had demanded that the permanent jobs should be given to the seniormost substitutes from the groups concerned.

15. It is also significant to note what the union has stated in paragraph 14 of its statement of claim:—

“However taking into consideration the fact that the Chairman, Bombay Port Trust under his decision conveyed in his letter of 21st September 1960 had conceded substitutes borne in category A list the right of appointment against permanent posts. This union does not claim that the lascars who have opted for the post of stokers should be ranked senior to substitutes from the A category list.”

I have already quoted paragraph 5 of the instructions in which nowhere has it been stated that the substitutes borne on the category A list had the right to appointment against any permanent posts.

16. It is significant to remember that if the principle put forth by the workmen is to be accepted there is no reason why they should not claim seniority even to the stokers included in the A list. Even though the wording of the reference order refers to two lists in fact there was only one list of two parts. These two parts are not made on any other principle except the serial order and number. The part A is consisted of 150 substitutes and the B part is to be made of the rest; the substitutes in part A have entered the employment earlier and naturally deserve priority to those in part B. The substitutes in both the lists have no relationship of any kind to the category of lascars and the circumstance that the three employees do not claim priority to the substitutes in A list also shows that their claim is without any principles or any basis.

17. Shri Shetye the General Secretary of the B.P.T. employees' Union has argued that the three workmen involved in this reference had previous experience of working as stokers and they should have been given preference. There is absolutely no evidence to show what type of experience they had and how long they had worked and what was the nature of the performance and capacity. Moreover it is the function of the management to consider the merits and superiority of the work and fix the seniority. The parties have not led any evidence and it is not the function of the Tribunal to fix the seniority on the basis of their work. It is clear from the record that the Deputy Conservator has fixed the seniority as per the decisions taken by the Trust in consultation with the unions and the demand of the three workmen to be placed above the stokers in the B list cannot be justified.

18. It is significant to note that when these appointments were made there were discussions with the union leaders and the various suggestions made by them were considered. The employers have produced at exhibit E-9 the draft note about the discussions in which Shri Shetye himself had taken part. After discussion the management had come to certain decisions. The relevant two decisions are as follows:—

- (i) Vacancies in posts of stoker will be filled by transfer from amongst bhandaries and topasses already in service against the quota of vacancies available to them in terms of the settlement reached between the administration and the unions and by the absorption of persons who are already borne on the authorised substitute register of stokers.
- (ii) If after filling vacancies of stokers from amongst bhandaries topasses and substitute stokers in accordance with item (i) above there are still some vacancies of stokers left they will be filled by transfer of lascars in the Port Department flotilla who are willing to accept transfers to posts of stoker provided they agree to be placed on the

seniority list of stokers below the bhandaries topasses and substitute stokers appointed as stokers in accordance with item (i) above."

From these decisions it is clear that the three employees who were permanent lascars cannot claim any seniority to the substitute stokers from the lists.

19. It is further significant to note that even after the discussions Shri Shetye the General Secretary of the B.P.T. employees' Union had sent a letter of thanks to the management for the decisions and had stated in his letter dated 26th July 1965 to the Secretary, Bombay Port Trust as follows:—

1. "The recorded conclusion 1 is correct.
2. Conclusion No. 2 is not quite correct. The correct conclusion reached is as follows:—

"If after filling vacancies of stokers from amongst Bhandaries, Topasses and substitute stokers in accordance with item 1 above there are still some vacancies of stokers left, they will be filled by transfer of lascars in the Port Department Flotilla who are willing to accept the transfer to posts of Stokers provided (they had stoker's experience) and they agree to be placed on the seniority list of stokers below Bhandaries, Topasses and substitute stokers appointed as stokers in accordance with item 1 above."

The employers have followed the same procedure and it shall have to be held that the three employees have no claim for seniority over the substitutes included in lists A and B. Their demand appears to be inconsistent with the various representations previously made by the unions. It is not based on any sound principles and they are not justified in claiming seniority to the stokers in the B list and are not entitled to any relief. Hence my award accordingly.

No order as to costs.

(Sd.) A. T. ZAMBRE, Presiding Officer,
[No. 28/62/68-LR.III/P&D.]

ORDER

New Delhi, the 23rd October 1970

S.O. 3680.—Whereas an industrial dispute exists between the employers in relation to Messrs Kanji Jadhavji and Company, Bombay and their workmen represented by the Transport and Dock Workers' Union, Bombay;

And, whereas the said employers and workmen have under sub-section (1) of section 10A of the Industrial disputes Act, 1947 (14 of 1947) agreed to refer the dispute to arbitration by an arbitration agreement and have forwarded to the Central Government under sub-section (3) of the said section a copy of the said arbitration agreement;

Now, therefore, in supersession of the Order of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. 28/117/66-LRIV dated the 17th August, 1966 published vide S. O. No. 2578, dated the 27th August, 1966, and in pursuance of sub-section (3) of section 10A of the said Act, the Central Government hereby publishes the said arbitration agreement which was received by it on the 15th September, 1970.

Agreement

(Under section 10A of the Industrial Disputes Act, 1947)

BETWEEN

NAME OF PARTIES:—

Representing employers:

Messrs Kanji Jadhavji & Co.,
Masjid Bridge, Bombay-9.

Mr. S. T. Shah,
Mr. K. L. Thakkar (Incharge-
Cement Section).

Representing workmen:

The Transport & Dock Workers'
Union, P. D'Mello Bhavan,
Carnac Bunder, Bombay-1.

Mr. K. A. Khan (Secretary).
Mr. I. S. Sawant (Jr.
Assistant Secretary).

It is hereby agreed between the parties to refer the following industrial dispute to the arbitration of Shri S. M. Dikhale, Deputy Chairman, Bombay Dock Labour Board, Krupanidhi, 9, Wittet Road, Ballard Estate, Bombay-1. The Arbitrator shall give this award within one month of the receipt of reference.

- (i) *Specific matters in dispute.*—"Whether Messrs Kanji Jadhavji and Company, Bombay are justified in not implementing the interim recommendations of the Central Wage Board for Port and Dock Workers in respect of cement handling workers, one Mukaddam and Cement Pallawalls at Bombay Port Trust Transit sheds in Bombay Docks. If not, whether the concerned workmen are entitled to the benefits as per the recommendations of Central Wage Board for Port and Dock Workers."
- (ii) Details of the parties to the dispute including the name and address of the establishment or undertaking involved.
- (iii) *Name of the Union, if any, representing the workmen in Question.*—Messrs Kanji Jadhavji and Company, Masjid Bridge, Bombay-9. Transport and Dock Workers' Union, P. D'Mello Bhavan, P. D'Mello Road, Carnac Bunder, Bombay-1.
- (iv) *Total number of workmen employed affected or likely to be affected by the dispute.*—39.
- (v) *Estimated number of workmen employed in the undertaking affected.*—39.

We further agree that the decision of the arbitrator shall be binding on us.

Witness

1. (Sd.) H. M. MANEK,
Asstt. Manager, Cement
Department, Kanji Jadhavji and
Coy.
2. (Sd.) B. L. DESAI, Secretary,
Bombay Dock Labour Board.

Signature of the Parties:

1. (Sd.) S. T. SHAH.
2. (Sd.) K. L. THAKKAR.
(Representing Employers).
1. (Sd.) K. A. KHAN & (Sd.) I. S.
SAWANT.
(Representing Workmen).

Dated, the 30th June, 1970.

I, hereby give my consent to act as an Arbitrator in the said dispute.

(Sd.) S. M. DIKHALE,
Deputy Chairman,
Bombay Dock Labour Board.

[No. 28/117/68-LRIV/P&D.]

AJIT CHANDRA, Under Secy.

आवेद

भई दिल्ली, 23 अक्तूबर 1970

का० आ० 3680.—यन: मैसर्स कानजी जाधवजी एण्ड कम्पनी, मुंबई से संबद्ध नियोजकों और उनके कर्मचारों के बीच, जिनका प्रतिनिधित्व ट्रांसपोर्ट एण्ड डॉक वर्कर्स यूनियन, मुंबई करती है, एक औद्योगिक विवाद विद्यमान है ;

और, यन: उक्त नियोजकों और कर्मचारों ने औद्योगिक विवाद अधिनियम, 1947 (1947 नं० 14) की धारा 10-क की उपधारा (1) के अधीन उस विवाद को एक माध्यस्थम् करार द्वारा माध्यस्थम् के लिए निर्देशित करने का करार किया है और उक्त धारा की उपधारा (3) के अधीन उक्त माध्यस्थम् करार की एक प्रति केन्द्रीय सरकार को भेजी है।

अतः अब भारत सरकार के श्रम, रोजगार और पुनर्वास मंत्रालय (श्रम और रोजगार विभाग) के का० आ० सं० 2578, तारीख 27 अगस्त, 1966 के अन्तर्गत प्रकाशित आदेश सं० 28/117/66 एल और 4, तारीख 17 अगस्त 1966 को अधिकांत करने हुए और उक्त अधिनियम की धारा 10-क की उपधारा (3) के अनुसरण में केन्द्रीय सरकार उक्त माध्यस्थम् करार को, जो उसे 15 सितम्बर 1970 को प्राप्त हुआ था, एतद्वारा प्रकाशित करती है।

करार

(औद्योगिक विवाद अधिनियम, 1947 की धारा 10-क के अन्तर्गत)

निम्नलिखित के बीच

पक्षकारों के नाम

नियोजकों का प्रतिनिधित्व करने वाले :

मैसर्स कानजी जाधवजी एण्ड कम्पनी, मस्जिद

श्री एम० टी० गह

श्री के० एल० ठक्कर

ब्रिज मुम्बई-9

(भारमाधक सिमेंट अनुभाग)

कर्मकारों का प्रतिनिधित्व करने वाले :

दि ट्रांसपोर्ट एण्ड डाक वर्कर्स यूनियन,

श्री के० ए० खान० (सचिव)

पी० डी० मैलो भवन, कारनाक बन्दर, मुंबई-1 श्री आई० एस० मावन्त (कनिष्ठ महायक सचिव)।

पक्षकारों के बीच निम्नलिखित औद्योगिक विवाद को एतद्वारा श्री एस० एम० दिखले, उपाध्यक्ष मुंबई डाक श्रम बोर्ड, कुपनिधि, 9, विट्टेट रोड, बैलाई एस्टेट, मुंबई-1 के माध्यस्थम् क लिए निर्देशित करने का करार किया गया है। माध्यस्थ यह पंचाट निर्देश की प्राप्ति से एक मास के भीतर देगा।

(i) विनिर्दिष्ट विवाद प्रश्न विषय .

“क्या मैसर्स कानजी जाधवजी एण्ड कम्पनी, मुंबई का मुंबई डाकों में मुंबई पत्तन न्यास अभिवहन शेडों पर सिमेंट का कार्य संभालने वाले कर्मकारों, एक मुकद्दम और सिमेंट पन्नेवालों के बारे में केन्द्रीय मजदूरी बोर्ड की पत्तन और डाक कर्मकारों के लिए अन्तरित सिफारिशों को कार्यान्वित न करना न्यायोचित है। यदि नहीं, तो क्या संबंधित कर्मकार पत्तन और डाक कर्मकारों के लिए केन्द्रीय मजदूरी बोर्ड की सिफारिशों के अनुसार फायदों के हकदार हैं”

(ii) विवाद के पक्षकारों का व्यौरा जिसमें अन्तर्बलित स्थापन या उपक्रम का नाम और पता भी सम्मिलित है।

(iii) यदि कोई संघ प्रश्नगत कर्मकारों का प्रतिनिधित्व करता हो तो उसका नाम

मैसर्स कानजी जाधवजी एण्ड कम्पनी, मस्जिद ब्रिज, मुम्बई-9 ट्रास्पूट एण्ड डाक कर्मकार

यूनियन पी० डी० मैलो भवन, पी० डी० मैलो रोड, कारनाक बन्दर, मुंबई-1

(iv) विवाद द्वारा प्रभावित या संभाव्यतः प्रभावित होने वाले नियोजित कर्मकारों की कुल संख्या-39

(v) प्रभावित उपक्रम में नियोजित कर्मकारों की प्राक्कलित संख्या-39

हम यह करार भी करते हैं कि मध्यस्थ का विनिश्चय हम पर आबद्धकर होगा

साक्षी :

पक्षकारों के हस्ताक्षर :

- | | |
|---|---|
| ह०/-एच० एम० मानेक सहायक प्रबंधक,
समेंट, विभाग कानजी जाधवजी ऐंड कम्पनी। | 1 ह०/- एस० टी० शाह
2 ह०/-के० एल० ठक्कर (नियोजकों का
प्रतिनिधित्व करने वाले) |
| /०-बी० एल० देसाई, सचिव, मुंबई डांक
2६हम बोर्ड | 1. ह०/- के० ए० खान
2. ह०/- आई०एस० सावंत (कर्मचारों का
प्रतिनिधित्व करने वाले) |

तारीख, 30 जून, 1970

मैं एतद्वारा उक्त विवाद में मध्यस्थ के रूप में कार्य करने की अपनी संमति देता हूँ।

ह/- एस० एम० दिबले,

उपध्यक्ष,

मुंबई डांक श्रम बोर्ड

[सं 28/11/7/66-एल०आर०/पी एंड डी]।

अजीत चन्द्र, अवसर सचिव।

(Department of Labour and Employment)

New Delhi, the 28th October 1970

S.O. 3681.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby, publishes the following award of the Presiding Officer, Central Government Industrial Tribunal (No. 2), Bombay in the matter of an application under section 33A of the said Act, from Shri Sahadeo Porob, Paliem, Porobvaddo, Post Office, Kiranpani, Pernem, Goa, which was received by the Central Government on 22nd October, 1970.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2
AT BOMBAY**

COMPLAINT No. CGIT-2/1 of 1969

ARISING OUT OF REF. No. CGIT-2/2 of 1969

PARTIES:

Shri Sahadeo Porob, Paliem, Porobvaddo, P.O. Kiranpani, Pernem (Goa.)—
Complainant.

Versus

M/s. Pandurang Timblo Industries, Margao, Goa—Opponent.

PRESENT:

Shri N. K. Vanl, Presiding Officer.

APPEARANCES:

For the complainant—Shri George Vaz, General Secretary, Goa Mining Labour Welfare Union, Goa.

For the opponent—Shri Ramesh Desai, Labour Adviser.

STATE: Goa, Daman & Diu.

INDUSTRY: Iron Ore Mines.

Dated the 3rd October, 1970

AWARD

This is a complaint under Section 33A of the Industrial Disputes Act, 1947 by Shri Sahadeo Porob.

2. The facts giving rise to this complaint are as follows:—

3. The complaint Shri Sahadeo Porob was in the service of the opponent. He participated in the strike which commenced on 14th February, 1969.

4. The opponent company held domestic enquiry against the complainant for the misconduct alleged to have been committed by him. The opponent dismissed him from service with effect from 7th April, 1969, holding him guilty of the misconduct alleged to have been committed by him.

5. As the Reference No. CGIT-2/2 of 1969 between the Company and the employees in connection with implementation of Wage Board recommendations is pending before this Tribunal and as the complainant is connected with the reference, the opponent filed application No. CGIT-2/7 of 1969 against the complainant under Section 33(2)(b) for approving its action of dismissing the complainant. This application was received by this Tribunal on 14th April, 1969.

6. In the meanwhile the complainant has filed this complaint dated 8th May, 1969 against the opponent. The same was received in this Tribunal on 13th May, 1969.

7. According to the complainant, he has been dismissed because he participated in the strike. His dismissal is by way of victimisation on false and baseless charges. The enquiry was not fair. The opponent has also contravened Section 33A of the Industrial Disputes Act.

8. The complainant and the opponent have given common pursis, saying that evidence in approval application No. CGIT-2/7 of 1969 should be read in this complaint.

9. As this complaint is under Section 33A of the Industrial Disputes Act, 1947 it is necessary to refer to Section 33A, which is as follows:—

“Where an employer contravenes the provisions of Section 33 during the pendency of proceedings before a Labour Court, Tribunal or National Tribunal any employee aggrieved by such contravention, may make a complaint in writing in the prescribed manner to such Labour Court, Tribunal or National Tribunal and on receipt of such complaint that Labour Court, Tribunal or National Tribunal shall adjudicate upon the complaint as if it were a dispute referred to or pending before it in accordance with the provisions of this Act and shall submit its award to the appropriate Government and the provisions of this Act shall apply accordingly.”

10. The above mentioned Sections postulates the following five things.

1. A proceeding pending before a Labour Court, Tribunal or National Tribunal;
2. A contravention of the provisions of S. 33 by the employer during such pendency.
3. A complaint in writing in the prescribed manner by the aggrieved employee to the concerned authority against such contravention;
4. Adjudication upon the complaint by the concerned authority as if it was an industrial dispute referred to or pending before it and submission of its award to the appropriate Government; and
5. Publication of the award by the appropriate Government under S. 17-A.

11. In the present case, it is common ground that reference No. CGIT-2/2 of 1969 is pending before this Tribunal. The complainant is connected with the dispute involved in the reference.

12. From the facts on record it is crystal clear that the opponent held domestic enquiry against the complainant and dismissed him from service, holding the allegations against him proved, with effect from 7th April, 1969. The opponent also filed application under Section 33(2)(b) of the Industrial Disputes Act, 1947 for approving the action of dismissal of the complainant.

13. As the opponent has taken steps for approving the action of the opponent as required under Section 33(2)(b) of the Industrial Disputes Act, 1947, the complainant cannot be said to be an aggrieved employee.

14. On evidence before me, I have held in application No. CGIT-2/7 of 1969 that M/s. Pandurang Timblo Industries's action in dismissing the complainant should not be approved. Consistent with this finding, I have dismissed that application. The result of my refusal of approval is that the workman concerned would be deemed, never to have been dismissed or discharged and would continue in service of the opponent as if nothing had happened. Hence, there is no discharge or dismissal of the opponent. The question of reinstatement on his complaint under Section 33A does not arise.

15. I, therefore, dismiss his complaint and pass the following order:—

ORDER

- (1) The complaint is dismissed.
- (2) Award is made accordingly.
- (3) No order as to costs.

(Sd.) N. K. VANI,
Presiding Officer,
Central Government Industrial,
Tribunal No. 2, Bombay.

[No. 10/62/70/LRIV.]

S.O. 3682.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Presiding Officer, Central Government Industrial Tribunal (No. 2), Bombay, in the matter of an application under section 33A of the said Act, from Shri Thomas Fernandes, Baag, Rivona, Sanguem, Goa, which was received by the Central Government on 22nd October, 1970.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, AT BOMBAY

COMPLAINT No. CGIT-2/15 OF 1969

ARISING OUT OF REF. No. CGIT-2/2 OF 1969

PARTIES:

Shri Thomas Fernandes, Baag, Rivona, Sanguem, Goa.—*Complainant.*
Versus

M/s. Pandurang Timblo Industries, Margao, Goa.—*Opponent.*

PRESENT:

Shri N. K. Vani, Presiding Officer.

APPEARANCES:

For the complainant.—Shri George Vaz, General Secretary, Goa Mining Labour Welfare Union, Goa.

For the opponent.—Shri Ramesh Desai, Labour Adviser.

INDUSTRY: Iron Ore Mines

STATE: Goa, Daman & Diu

Dated the 3rd October, 1970

AWARD

This is a complaint under Section 33A of the Industrial Disputes Act, 1947 by Shri Thomas Fernandes.

2. The facts giving rise to this complaint are as follows:—

3. The complainant Shri Thomas Fernandes was in the service of the opponent. He participated in the strike which commenced on 14th February, 1969.

4. The opponent company held domestic enquiry against the complainant for the misconduct alleged to have been committed by him. The opponent dismissed him from service with effect from 11th August, 1969, holding him guilty of the misconduct alleged to have been committed by him.

5. As the Reference No. CGIT-2/2 of 1969 between the Company and the employees in connection with implementation of Wage Board recommendations is pending before this Tribunal and as the complainant is connected with the reference the opponent filed application No. CGIT-2/18 of 1969 against the complainant under Section 33(2)(b) for approving its action of dismissing the complainant. This application was received by this Tribunal on 16th August, 1969.

6. In the meanwhile the complainant has filed this complaint dated 16th May, 1969 against the opponent. The same was received in this Tribunal on 28th May, 1969.

7. According to the complainant he has been dismissed because he participated in the strike. His dismissal is by way of victimisation on false and baseless charges. The enquiry was not fair. The opponent has also contravened Section 33A of the Industrial Disputes Act.

8. The complainant and the opponent have given common pursis saying that evidence in approval application No. CGIT-2/18 of 1969 should be read in this complaint.

9. As this complaint is under Section 33A of the Industrial Disputes Act, 1947, it is necessary to refer to Section 33A, which is as follows:—

“Where an employer contravenes the provisions of Section 33 during the pendency of proceedings before a Labour Court, Tribunal or National Tribunal any employee aggrieved by such contravention, may make a complaint in writing in the prescribed manner to such Labour Court, Tribunal or National Tribunal and on receipt of such complaint that Labour Court, Tribunal or National Tribunal shall adjudicate upon the complaint as if it were a dispute referred to or pending before it in accordance with the provisions of this Act and shall submit its award to the appropriate Government and the provisions of this Act shall apply accordingly.”

10. The above mentioned Section postulates the following five things.

- (1) A proceeding pending before a Labour Court, Tribunal or National Tribunal;
- (2) A contravention of the provisions of S. 33 by the employer during such pendency.
- (3) A complaint in writing in the prescribed manner by the aggrieved employee to the concerned authority against such contravention;
- (4) Adjudication upon the complaint by the concerned authority as if it was an industrial dispute referred to or pending before it and submission of its award to the appropriate Government; and
- (5) Publication of the award by the appropriate Government under S-17-A.

11. In the present case, it is common ground that reference No. CGIT-2/2 of 1969 is pending before this Tribunal. The complaint is connected with the dispute involved in the reference.

12. From the facts on record it is crystal clear that the opponent held domestic enquiry against the complainant and dismissed him from service holding the allegations against him proved, with effect from 11st August, 1969. The opponent also filed application under Section 33(2)(b) of the Industrial Disputes Act, 1947 for approving the action of dismissal of the complainant.

13. As the opponent has taken steps for approving the action of the opponent as required under Section 33(2)(b) of the Industrial Disputes Act, 1947, the complainant cannot be said to be an aggrieved employee.

14. On evidence before me, I have held in application No. CGIT-2/18 of 1969 that M/s. Pandurang Timblo Industries's action in dismissing the complainant should not be approved. Consistent with this finding I have dismissed that application. The result of my refusal of approval is that the workmen concerned would be deemed never to have been dismissed or discharged and would continue in service of the opponent as if nothing had happened. Hence, there is no discharge or dismissal of the opponent. The question of reinstatement on his complaint under Section 33A does not arise.

15. It is interesting to note that the complainant filed the present complaint against the opponent under Section 33A of the Industrial Disputes Act, 1947 before his dismissal. It means that on the date on which he filed his complaint, domestic enquiry proceedings against him had not ended. He had, therefore, no reason to come to the Tribunal on that date.

16. I have considered this complaint on other grounds also treating the complainant deemed to have been filed before me after his dismissal.

17. I, therefore, dismiss his complaint and pass the following order:—

ORDER

- (1) The complaint is dismissed.
- (2) Award is made accordingly.
- (3) No order as to costs.

(Sd.) N. K. VANI,
Presiding Officer,
Central Government Industrial Tribunal,
No. 2, Bombay.
[No. 10/63/70/LRIV.]

S.O. 3683.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Presiding Officer, Central Government Industrial Tribunal (No. 2), Bombay, in the matter of an application under section 33A of the said Act, from Shri Laximona Amonker, Serwada, Behind Durga Hotel, Nevelim, Margao, Goa, which was received by the Central Government on 22nd October, 1970.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2,
AT BOMBAY

COMPLAINT NO. CGIT-2/29 OF 1969

ARISING OUT OF REF. NO. CGIT-2/2 OF 1969

PARTIES:

Shri Laximona Amonker, Serwara, Behind Durga Hotel, Nevelim, Margao,
Goa—*Complainant*.

Versus

M/s. Pandurang Timblo Industries, Margao, Goa—*Opponent*.

PRESENT:

Shri N. K. Vani, Presiding Officer.

APPEARANCES:

For the complainant—Shri George Vaz, General Secretary, Goa Mining Labour Welfare Union, Goa.

For the opponent—Shri Ramesh Dessai, Labour Adviser.

INDUSTRY: Iron Ore Mines.

STATE: Goa, Daman and Diu.

Dated the 3rd October, 1970

AWARD

This is a complaint under Section 33A of the Industrial Disputes Act, 1947 by Shri Laximona Amonker.

2. The facts giving rise to this complaint are as follows:—

3. The complainant Shri Laximona Amonker was in the service of the opponent. He participated in the strike which commenced on 14th February, 1969.

4. The opponent company held domestic enquiry against the complainant for the misconduct alleged to have been committed by him. The opponent dismissed him from service with effect from 7th April, 1969 holding him guilty of the misconduct alleged to have been committed by him.

5. As the Reference No. CGIT-2/2 of 1969 between the Company and the employees in connection with implementation of Wage Board recommendations is pending before this Tribunal and as the complainant is connected with the reference, the opponent filed application No. CGIT-2/8 of 1969 against the complainant under Section 33(2)(b) for approving its action of dismissing the complainant. This application was received by this Tribunal on 14th April, 1969.

6. In the mean-while the complainant has filed this complaint dated 16th May, 1969 against the opponent. The same was received in this Tribunal on 10th June, 1969.

7. According to the complainant, he has been dismissed because he participated in the strike. His dismissal is by way of victimisation on false and baseless charges. The enquiry was not fair. The opponent has also contravened Section 33A of the Industrial Disputes Act.

8. The complainant and the opponent have given common pursis saying that evidence in approval application No. CGIT-2/8 of 1969 should be read in this complaint.

9. As this complaint is under Section 33A of the Industrial Disputes Act, 1947 it is necessary to refer to Section 33A, which is as follows:—

“Where an employer contravenes the provisions of Section 33 during the pendency of proceedings before a Labour Court, Tribunal or National Tribunal any employee aggrieved by such contravention, may make a complaint in writing in the prescribed manner to such Labour Court, Tribunal or National Tribunal and on receipt of such complaint that Labour Court, Tribunal or National Tribunal shall adjudicate upon the complaint as if it were a dispute referred to or pending before it in accordance with the provisions of this Act and shall submit its award to the appropriate Government and the provisions of this Act shall apply accordingly.”

10. The above mentioned Section postulates the following five things:

- (1) A proceeding pending before a Labour Court, Tribunal or National Tribunal;
- (2) A contravention of the provisions of S. 33 by the employer during such pendency.
- (3) A complaint in writing in the prescribed manner by the aggrieved employee to the concerned authority against such contravention;
- (4) Adjudication upon the complaint by the concerned authority as if it was an industrial dispute referred to or pending before it and submission of its award to the appropriate Government; and
- (5) Publication of the award by the appropriate Government under S.17-A.

11. In the present case, it is common ground that reference No. CGIT-2/2 of 1969 is pending before this Tribunal. The complainant is connected with the dispute involved in the reference.

12. From the facts on record it is crystal clear that the opponent held domestic enquiry against the complainant and dismissed him from service, holding the allegations against him proved, with effect from 7th April, 1969. The opponent also filed application under Section 33(2)(b) of the Industrial Disputes Act, 1947 for approving the action of dismissal of the complainant.

13. As the opponent has taken steps for approving the action of the opponent as required under Section 33(2)(b) of the Industrial Disputes Act, 1947, the complainant cannot be said to be an aggrieved employee.

14. On evidence before me, I have held in application No. CGIT-2/8 of 1969 that M/s Pandurang Timbio Industries's action in dismissing the complainant should not be approved. Consistent with this finding I have dismissed that application. The result of my refusal of approval is that the workman concerned would be deemed never to have been dismissed or discharged and would continue in service of the opponent as if nothing had happened. Hence, there is no discharge or dismissal of the opponent. The question of reinstatement on his complaint under Section 33A does not arise.

15. I, therefore, dismiss his complaint and pass the following order:—

ORDER

- (1) The complaint is dismissed.
- (2) Award is made accordingly.
- (3) No orders to costs.

(Sd.) N. K. VANI,
Presiding Officer,
Central Government Industrial
Tribunal No. 2, Bombay.
[No. 10/60/70-LRIV.]

New Delhi, the 3rd November 1970

S.O. 3684.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of Shri M. R. Raju, Arbitrator, in the industrial dispute between the management of Bhilai Steel Plant, Bhilai and their workmen, which was received by the Central Government on the 23rd October, 1970.

IN THE MATTER OF ARBITRATION IN THE INDUSTRIAL DISPUTE BETWEEN THE MANAGEMENT OF BHILAI STEEL PLANT AND THEIR WORKMEN REPRESENTED BY MINES WORKERS UNION (INTUC) OVER DENIAL OF PROPER SCALE OF PAY TO SHRI P. K. JOHNEY, ASSISTANT SURVEYOR, NANDINI MINES.

PRESENT:—

Shri M. R. Raju, Regional Labour Commissioner (Central) & Arbitrator.

Representing employer:—

1. Shri R. P. Singh, Senior Industrial Relations Officer, Industrial Relations (Mines), Bhilai Steel Plant, P. O. Bhilai-1 (M.P.).
2. Shri S. D. Dikshit, Industrial Relations Officer, BSP, P.O. Bhilai-1 (M.P.).
3. Shri T. N. Bahl, Assistant Personnel Officer (Mines), BSP, P.O. Bhilai-1 (M.P.).
4. Shri K. G. Marar, Additional Labour Welfare Officer, BSP, P.O. Bhilai-1, (M.P.).

Representing workmen:—

1. Shri Heman Deshmukh, Secretary, INTUC (M.P.).
2. Shri T. A. Menon, Vice-President, Mines Workers Union (INTUC), P.O. Nandini Mines (M.P.).

No. RLC(V)/3/70.

Dated 22nd October, 1970.

AWARD

The Management of Bhilai Steel Plant on the one hand and the Mines Workers Union on the other entered into a settlement on 9th January, 1970, agreeing to refer the following specific matter concerning an industrial dispute for my Arbitration under Section 10A of the I.D. Act, 1947:—

“Whether the action of the Management of Bhilai Steel Plant in denying the scale of Rs. 250—380 (revised Rs. 260—395, w.e.f. 1st April, 1965) as Surveyor to Shri P. K. Johnney, Assistant Surveyor, Nandini Mines, w.e.f., 1st October, 1962, is proper and justified; if not, to what relief is the workman entitled?”

2. The parties also agreed that the Arbitrator shall make his award within a period of six months from the date of settlement or for such time as is extended by mutual agreement between them in writing. It was further stipulated in the agreement that in case the award is not made within the stipulated period mentioned above, the reference to arbitration shall stand automatically cancelled and that they shall be free to negotiate for fresh arbitration. The aforesaid Settlement was published by the Ministry of Labour and Employment in the Gazette of India, Part II, Section 3 (II) of the Gazette of India, dated 7th March, 1970. The period of six months agreed to between the parties in the earlier settlement had expired on 8th July, 1970, but the parties agreed on 6th July, 1970 to extend the time-limit for giving my award by a further period of three months from the

date of expiry of the original agreement i.e., 9th January, 1970. During the course of proceedings on 23rd September, 1970, the parties jointly agreed to extend the period of Arbitration Award till 30th October, 1970.

3. The parties were requested to file their written statements endorsing copy thereof to the other party and were requested by the Arbitrator in his letter No. RLC(V)/3/70, dated 30th May, 1970, to attend the hearing at 10 A.M. on 8th June, 1970, at Bhilai Hotel, Bhilai. The Mines Workers Union submitted their written statement on 27th March, 1970, whereas the Management of Bhilai Steel Plant submitted on 18th April, 1970.

4. The parties were heard on 8th June, 1970 and 23rd & 24th September, 1970. Briefly the management's contention is as under:—

(i) Shri P. K. Johnney was appointed as Supervisor on a starting salary of Rs. 116 in the scale of Rs. 100—200 w.e.f. 10th February, 1960 whereas Shri C. M. Patnaik joined as Supervisor (Survey) on 26th March, 1957 on a starting salary of Rs. 140 in the scale of Rs. 100—300. Similarly, Shri S. K. Gupta also joined as Supervisor (Survey) on Rs. 148 on 24th July, 1956 in the scale of Rs. 100—300.

(ii) The Departmental Promotion Committee which met on 27th September, 1962 to consider promotion of all the staff of Drawing and Survey Section of Mines organisation recommended Sarvashri C. M. Patnaik and S. K. Gupta to the post of Surveyor in the scale of Rs. 200—300, Shri P. K. Johnney, Supervisor was recommended along with S/Shri Pati, K. J. Kurup, Assistant Surveyors and Tulsidas, Junior Surveyor to the post of Assistant Surveyor in the scale of Rs. 150—250.

(iii) The Management of Bhilai Steel Plant accordingly promoted the persons as stated in para 2(ii) w.e.f. 1st October, 1962 as per their Order No. Estt. IX-4(6)/OMQ/4/62/606 dated 23rd October, 1962.

(iv) S/Shri S. K. Gupta and C. M. Patnaik were on higher scale (Rs. 100—300) whereas Shri P. K. Johnney was in lower scale (Rs. 100—200) on the day of promotion i.e., 1st October, 1962.

(v) Shri P. K. Johnney was not superseded by any of his juniors at any time and the claim of the workman is belated as the claim is from a very distant past commencing from 1st October, 1962 and a notice of change was served by the Management publishing the LOP & Seniority List of the employees in the Survey Section of OMQ Dept.

(vi) Promotions ordered by the Management based on D.P.C. recommendations were in order and are free from *malafide* intention. The claim of Shri P. K. Johnney, Assistant Surveyor for promotion to the post of Surveyor in the Scale of Rs. 250—380 (revised Rs. 260—395) is untenable and is, therefore, denied.

5. The contention of Mines Workers Union (INTUC) *inter alia*, is as under:—

(i) Shri P. K. Johnney was initially appointed as Work Supervisor in the scale of Rs. 90—180 (old) w.e.f. 2nd July, 1957 and thereafter he was selected for the post of Supervisor (Survey) in the scale of Rs. 100—200 (old) w.e.f. 10th February, 1960 after an interview/test. He was transferred to Nandini Mines as Supervisor (Survey) on 9th April, 1961 followed by S/Shri C. M. Patnaik and S. K. Gupta who joined Nandini Mines on 9th November, 1961.

(ii) There were three grades for Surveyors before the promotion of 1st October, 1962 i.e., Supervisor (Survey): Rs. 150—290, Assistant Surveyor: Rs. 140—290, Junior Surveyor: Rs. 110—200.

(iii) The order mentioned in 4 (iii) was a promotion and/or upgradation for all persons except Shri Johnney in whose case it amounted to demotion/reversion.

(iv) Shri Johnney has been doing same or similar work of that of S/Shri S. K. Gupta and C. M. Patnaik before and after the promotions of 1st October, 1962 and shouldering such responsibilities with desired standard of efficiency. He is technically and academically better qualified than at least Shri C. M. Patnaik who despite a non-matric was considered to the post of Surveyor neglecting the claim of Shri P. K. Johnney although there was clear vacancy to accommodate him.

(v) The D.P.C. is a recommendatory body and is to function within the orbit of the rules, policy and procedures of the management. The D.P.C. in the instant case ignored the rightful claim of the workman by travelling beyond its original jurisdiction. The recommendations are thereby faulty and illegal amounting to denial of natural justice and fairplay.

(vi) During 1962, Supervisors in the scale of Rs. 100—200 (old) employed in all sections in B.S.P. viz., Electrical, Mechanical, Civil etc were promoted to the grade of Rs. 200—300 (Old) and the line of promotions of Shri P. K. Johnney who was designated as Supervisor should not be different for the simple reason that he was working in the Survey Section in O.M.Q. Dept.

(vii) The workman was further victimised by allowing seniority to S/Shri K. J. Kurup and S. Pati over Shri Johnney from 1st April, 1962, who was originally senior to them.

(viii) Shri Johnney being entrusted with higher or equal responsibility of that of Surveyor has been denied of the scale of Rs. 250—380/260—395 by the management whose action is improper and unjustified.

6. A rejoinder was submitted by the Union on 23rd April, 1970 and they filed 13 documents on 8th June, 1970 and another three documents on 21st September, 1970 and two more on 22nd September, 1970. One witness namely Shri K. J. Kurup, Assistant Surveyor, Nandini Mines was examined on behalf of the workman on 8th June, 1970 and the management cross-examined him. Shri Kurup submitted a statement duly signed by him in which he has categorically stated that he was working under Shri P. K. Johnney and further added during cross-examination that the work assignment entrusted to him was lesser in nature and responsibility. Both the parties submitted their written arguments supplemented by oral arguments.

7. During the arbitration proceedings I received two applications from S/Shri S. Pati and K. J. Kurup, both Assistant Surveyors, employed in Nandini Mines, BSP requesting to make them parties in this case. Both had claimed seniority over Shri P. K. Johnney as Assistant Surveyor and, therefore, claimed the post of Supervisor from 1st October, 1962. Since they are not parties to the arbitration's agreement their request for admitting them as parties could not be allowed. However, both of them were advised to appear before me *vide* RLC(V)/3/70 dated 8th September, 1970. Since they are not parties to the arbitration's 1970. Shri S. Pati represented by Shri C. R. Bakshi of S.K.M.S. (AITUC) appeared before me while Shri Kurup did not turn up. The reason for non-appearance of Shri K. J. Kurup is presumably linked with the fact of submissions made by him in his statement on 8th June, 1970. The contents of his earlier statement and that of subsequent application apparently appear to be self-contradictory and stand defeated his own claim which appears to me as an after-thought.

From the applications submitted by the aforesaid employees and submissions before me by Shri S. Pati during the personal hearing following facts were revealed:—

(i) S/Shri S. Pati and K. J. Kurup were Asstt. Surveyors prior to and after 1st October, 1962 and were never designated as Supervisor (Survey).

(ii) After the order of promotion w.e.f. 1st October, 1962 both the abovesaid employees represented for seniority as Asstt. Surveyor in a higher scale as allowed in Rajhara Mines from 1st April, 1962 and as per an Arbitration award they were allowed the seniority as Assistant Surveyor from 1st April, 1962 in the scale prevailed at Rajhara Mines.

(iii) The above employees have no reason nor protested their designation as Assistant Surveyor or claimed for the post of Surveyor in the past. Their present claim is imaginary as they have no case if Shri P. K. Johnney is not allowed the post of Surveyor from 1st October, 1962.

(iv) Shri S. Pati produced a document placing him as in-charge of Survey and Drawing Section, Nandini Mines during 1963 which of course has nothing to do with the present dispute, cause of which arose on 1st October, 1962.

(v) Shri S. Pati argued that he was/is working in a higher position than Shri P. K. Johnney and holding higher responsibilities than the latter but could not prove that he was doing so, prior to 1st October, 1962 by virtue of designation, pay scale or nature of duties.

(vi) Shri S. Pati claimed for the post of Surveyor in the scale of Rs. 350—575 in the applications submitted but subsequently changed his stand and claimed the post of Surveyor in the scale of Rs. 260—395 during the personal hearing.

Shri P. K. Johnney's claim for the post of Surveyor in the scale of Rs. 260—395 is centered on points mentioned at para 5 to 6 and the case of S/Shri Pati and K. J. Kurup are totally different. I do not consider, therefore, to deal with their case.

on merits in this proceedings. By doing so, I am afraid that I will be going beyond my jurisdiction as Arbitrator. Shri S. Pati could not convince me, nor I could find any reason how S/Shri Pati or K. J. Kurup would be affected adversely by an Award on the claim of Shri P. K. Johnney on the grounds of injustice and discrimination.

8. I have examined the minutes of D.P.C. leading to the promotion of Survey staff w.e.f. 1st October, 1962 on which the present controversy has arisen.

9. On the written statements, rejoinder, documents and submissions made by the parties I find that the whole issue hinges upon a single question:—

"Whether S/Shri S. K. Gupta, C. M. Patnaik and P. K. Johnney employed as Supervisor (Survey) were treated at par or not in the matter of work assignment."

Management in their written statement dated 18th April, 1970, stated that Shri Johnney was appointed as Supervisor whereas S/Shri Gupta and Patnaik were employed as Supervisor (Survey.) The above statement has been disproved by the Union in their rejoinder dated 22nd April, 1970, by producing four documents. On the face of the documents the fact remains undisputed that Shri Johnney was employed as Supervisor (Survey) as that of S/Shri Gupta and Patnaik and not mere Supervisor. The statement of the management to the extent is misleading and devoid of fact. However, Management neither further disputed the issue nor pressed on the point. Hence Union's contention to the extent that all the three workmen were originally designated as Supervisor (Survey) is tenable and is therefore to be accepted. The question remains is the work assignments. Here also Union's contention supported by several documents/witness that Shri Johnney was assigned with equal or more responsibility with that of S/Shri Gupta and Patnaik could not be challenged by the management. Union also produced an Order of Mines Manager, Nandini Mines dated 16th November, 1961, allotting the same duties to S/Shri Patnaik and Johnney until further orders, which ultimately proves that the Supervisor (Survey) S/Shri Patnaik and Johnney were treated at par in the matter of work assignment. I demanded the job descriptions of the workmen concerned but management could not produce the same and stated that the case relates to early dates of development of Mines during which job description, line of promotion etc. were not made either in Mines or Plant. I very well appreciate this point that a huge engineering complex like that of Bhilai Steel Plant takes time for originating a well defined personnel policy. But this does not mean that a worker from whom equal work has been extracted could/can be denied his due right. Shri Johnney for all purposes relating to work was at par with S/Shri C. M. Patnaik and S. K. Gupta.

10. The contention of the management that they served a notice of change during 1968 publishing the L.O.P. and Seniority of the employees employed in the Survey Section of OMQ Dept. does not affect this case as it is much later than the date the workman claims for the post i.e., 1st October, 1962.

11. Argument of management that this case is belated is without any force. Shri P. K. Johnney made his first representation to the Personnel Manager, BSP, on 28th November, 1962, immediately after publication of the disputed promotion order on 23rd October, 1962, which was replied by the management on 10th January, 1963. Union has submitted the above representations and the reply thereof along with subsequent applications made by the workman concerned. Shri Johnney also ventilated his grievance through the grievance committee which as a matter of fact discussed his case once but failed to take a decision till today.

12. The Management had also pointed out the likely repercussions which may come up by the decision of this case. I would like to mention that they could have thought of it before making the arbitration agreement. However, as brought to my notice and gathered from the details submitted to me by the Union as well as Shri C. P. Bakshi, representative of S. Pathi and Kurup, the following points are revealed:—

- (i) The claim of Shri S. Pathi, is for Surveyor in the scale of Rs. 350—575. He is statutorily qualified for the said post and is, therefore, eligible to it.
- (ii) Shri Kurup who happened to be senior to Shri P. K. Johnney by virtue of an arbitration award was really junior to Shri P. K. Johnney when examined in terms of pay scale and date of joining. Shri Kurup was only in the scale of Rs. 90—185 whereas Shri P. K. Johnney was in the scale of Rs. 100—200.

(iii) On the repeated representations and the disputes successively raised by P. K. Johnney, he should have been legitimately given the seniority over Shri Kurup to restore his position before the pronouncement of the Award. This has not been done by the Management putting Shri Johnney at a lower position creating thereby perpetual mental agony to Shri Johnney.

(iv) Shri S. Pathi stands at S. No. 1 in the notified seniority list of Assistant Surveyors and on the information available, he stands statutorily qualified for the post of Surveyor in the scale of Rs. 350—575 as per the notified line of promotion published by the Management. The claim of Shri Johnney is only for Rs. 260—395 and hence there cannot be any responsible clash of interests between these two workmen as both are to go up in different scales namely Rs. 260—395 and Rs. 350—575. Hence the repercussion aspect which Management has brought in before me can be solved on the above lines.

13. Reliance has been made by the management on D.P.C. which according to them is the supreme body for recommendation of suitable candidates for higher post. Shri Johnney was not recommended and, therefore, according to them he was not promoted. Management argued that promotion is purely a managerial function as upheld by the Supreme Court in the case of Brook Bond (P) Ltd., Vs. Their workmen. I fully agree with the argument that promotion is managerial function. But the question placed before me by the opposite party whether the said D.P.C. has followed the policy and procedure as notified by the management of Bhilai Steel Plant remains as question and could not be answered by the management. What I find in the instant case was full materials were perhaps not supplied to the Committee while considering the promotion and the Union's contention that the D.P.C. traversed beyond its jurisdiction cannot, therefore, be fully ruled out.

14. The obvious anomaly involved in the issue, as I find, is that while the management promoted two Supervisors (Survey) to the post of Surveyor in the scale Rs. 250—380 another Supervisor (Survey) was not bracketed with them probably on the ground that he was in receipt of Rs. 150—290 whereas others were in receipt of Rs. 150—390 (Old) although all the three were Supervisor (Survey) doing same or similar work and shouldering same responsibilities. Management admitted during the proceedings that Shri Johnney's records were good so as to be considered for promotion; he is better qualified than Shri C. M. Patnaik who is a non-matric but was considered for promotion to the post of Surveyor and above all Shri P. K. Johnney was bracketed with Assistant Surveyors (140—290) and juniors Surveyors (110—200) who were subordinate to him. Shri Johnney was equated with his two colleagues Supervisor (Survey) for all purposes connected with work except in the case of promotion and that is why he has been representing to the management ever since the promotion of 1962. The Grievance Committee vide minutes dated 2nd August 1969, although agreed to examine the qualification of Shri Patnaik did not further meet. The reason is obvious.

AWARD

15. Having, therefore, carefully considered the facts of the case and the evidence, documents and other materials placed before me by the parties and having considered the pleadings during the course of the proceedings, I give my award as follows:—

- (i) The action of the management of Bhilai Steel Plant in denying the scale of Rs. 250—380 (revised Rs. 260—395 w.e.f. 1st April, 1965), as Surveyor to Shri P. K. Johnney, Assistant Surveyor, Nandini Mines w.e.f. 1st October, 1962, is not proper and, therefore, unjustified.
- (ii) All benefits accruing from this award shall be given to Shri P. K. Johnney within a period of one month from the date of its enforcement.
- (iii) No costs.

I take this opportunity to express my thanks to both parties for their unstinted co-operation extended to me during the course of hearing of this case.

(Sd.) M. R. RAJU,

Regional Labour Commissioner (Central)
(Verification) and Arbitrator.

NEW DELHI.
Dated 22nd October, 1970.

[No. 8/3/70-LR.IV.]

New Delhi, the 4th November 1970

S.O. 3685.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the management of Sodepur Workshop and Stores of Messrs Bengal Coal Company Limited, Post Office Dishergarh, District Burdwan and their workmen, which was received by the Central Government on the 26th October, 1970.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE No. 29 OF 1970

PARTIES:

Employers in relation to the management of Sodepur Workshop and Stores of Messrs Bengal Coal Company Limited,

AND

Their workmen.

Mr. B. N. Banerjee, Presiding Officer.

APPEARANCES:

On behalf of Employers—Shri D. Narsingh, Advocate.

On behalf of Workmen—Shri Chandra Sekhar Mukhopadhyay Advocate.

STATE: West Bengal

INDUSTRY: Coal Mines.

AWARD

By Order No. 6/29/70-LRII. dated July 17, 1970, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), referred the following dispute between the employers in relation to the management of Sodepur Workshop and Stores of Messrs Bengal Coal Company Limited and their workmen, to this Tribunal, for adjudication, namely:

“Whether the action of the management of Sodepur Workshop and Stores of Messrs Bengal Coal Company Limited, Post Office Dishergarh, District Burdwan in dismissing Shri Mohan Lal Chatterjee, Assistant Store-keeper, with effect from the 22nd April, 1970 was justified? If not, to what relief is the workman entitled?”

2. Sodepur Workshop and Stores admittedly belongs to Bengal Coal Company Limited. The dismissed workman, Mohan Lal Chatterjee, used to work in the said Stores as an Assistant Store-keeper. On March 10, 1970, he was charged with misconduct in the following language:

“That you on or about 2nd February, 1970 to 15th February, 1970 being a servant in the employment of Sodepur Central Stores, Bengal Coal Co. Ltd. as assistant Store keeper and in such capacity entrusted with the properties, “as per list attached” belonging to the said company, you had also dominion over the said properties valued at Rs. 16240.25. During audit, the properties mentioned in the above list were found short and you were unable to explain the shortage. This is a case of criminal breach of trust and misappropriation. You are, therefore, charged u.s. 17 1(a) of the Standing orders for theft, dishonesty in connection with the employer's business and property. You are suspended pending enquiry.”

To the above chargesheet was appended a list of 54 items of store, alleged to have been misappropriated by the workman. The chargesheet is an exhibit in this Reference and marked Ex. 1.

3. To the above chargesheet the workman submitted an explanation in the following language:

“***I beg to state that the items entrusted with me are lying in godown no 1 and 2 which are being managed not only by myself but also some others (i.e. Sree P. Das, Works and Stores Supervisor supervises). I do not hold the keys of the godowns and the godowns are frequently kept open other than scheduled duty hours in my absence.

As regards domination also I would like to point out that the existence of godowns would say that I had no dominion over the aforesaid godowns alone.

In regard to the shortages of items, possible clues and causes have been intimated to you through my written statement submitted to you on 17th February, 1970. Audit has been started after my report about the event.

Under the circumstances I cannot understand how I may be made responsible for the shortages incurred and would request you to investigate the matters properly and arrange to release me from the charges."

The explanation is also part of Ex. 1.

4. There was an enquiry conducted into the charges by Sukumar Siddhanta, Security Officer, authorised to conduct the enquiry. He examined several witnesses on behalf of the management and one witness on behalf of the workman and submitted a report by which he found the workman guilty of the misconduct. The enquiry proceedings are marked Ex. 5 and the Report is marked Ex. 7. There was an order of dismissal passed on the enquiry Report (Ex. 16 and 16a). The order was communicated to the workman by a letter, dated 22nd April, 1970 (Ex. 8).

5. The grievances made by the workman against the order of dismissal, as pleaded by him, were:

(a) that he had himself made a detailed report of shortage to the management long prior to the issue of the chargesheet against him, thereby showing his non-complicity in the misconduct.

(b) that the disciplinary enquiry was not properly conducted in that he was not given due opportunity to cross-examine all the witnesses of the management nor was he allowed to go through the proceedings although he was made to sign the records of the proceedings.

(c) that the findings of the enquiry officer were perverse.

6. The management also filed a written statement. In paragraphs 2 and 3 of the said statement there were two preliminary objections taken as to the maintainability of the order of Reference and they are set out below:

"2. The present dispute had, at no time, been sponsored by any body of workmen or any trade union before it was referred to this Tribunal for adjudication. In the circumstances, the statement in the present order of reference that a dispute existed between the employers and their workmen relating to the dismissal of Shri Mohanlal Chatterjee, the workman named in the aforesaid schedule, is not correct. The reference, therefore, is bad in law and consequently the Tribunal may be pleased to refuse to entertain it.

3. The reference is bad in law on the further ground that even so far as Shri Mohanlal Chatterjee is concerned, there was no dispute whatsoever between him and the management before the present reference was made in as much as the said workman had never raised any dispute or made any demand after his dismissal for the reinstatement or for any other relief. There was, thus, no industrial dispute within the scope of section 2(k) of the Industrial Disputes Act, 1947 ***."

On the merits, it was pleaded in paragraphs 7(d), (e) and (f):

(d) An enquiry was, therefore, held in the matter with due notice to the workman on 20th, 24th, 25th and 30th March, 1970. The workman was present in the enquiry on all those days. Seven witnesses for the management were examined in the enquiry. He was given full opportunity to cross-examine the witnesses after the statement of each witness was recorded. He, however, cross-examined only three of those witnesses and declined to cross-examine the remaining four witnesses.

(e) The workman examined one witness in his defence, whose statement was recorded by the enquiry officer. Thereafter, the workman himself made a statement which was also recorded by the enquiry officer. In course of his statement, he reiterated his denial of the charge and stated that he had nothing more to add to what he had stated in his explanation to the chargesheet. He also stated before the enquiry officer that he had examined one defence witness and that he had no other witness to be examined in his defence.

- (f) After each of the aforesaid statement was recorded, the same was read over and explained to the witness and to the workman. The witness and the workman then put their signatures under the statements after admitting that the same were correctly recorded.

In the back ground of the aforesaid pleadings, I have now to decide the order of Reference.

7. So far as the first preliminary objection taken by the management is concerned, I need notice that the amending Act of 1965 has brought Section 2A on the Statute Book, which reads as follows:

"Where any employer discharges, dismisses, retrenches or otherwise terminates the service of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute."

In the instant reference, it is true, the case of the workman was not espoused by any trade union. Nevertheless, he is entitled to raise an industrial dispute all by himself. If such an industrial dispute be referred to a tribunal, it is the duty of that Tribunal to adjudicate upon the said dispute. The only fault that can be found in the order of Reference is linguistic. The order of Reference proceeds on the unfortunate supposition that there existed an industrial dispute between the employers in relation to the management of the Sodepur Workshop and Stores of Messrs Benga. Coal Company Ltd. and their workmen, whereas in reality there was an industrial dispute between the employers and a single workman of the name of Moman Lal Chatterjee. The schedule, however, names the workman correctly. I do not think that in the circumstances of the case the Central Government was so very misguided in the formation of their opinion as to make the entire reference void *ab initio*. I do not, as such, make much of the first preliminary objection.

8. The second preliminary objection is based upon certain observation by the Supreme Court in the case of *Sindhu Resettlement Corporation Ltd. vs Industrial Tribunal, Gujarat*, (1968) 1 LLJ 834 (839), which I set out below:

"It may be that the conciliation officer reported to the Government that an industrial dispute did exist relating to the reinstatement of respondent 3 and payment of wages to him from 21st February 1958, but when the dispute came up for adjudication before the tribunal, the evidence produced clearly showed that no such dispute had ever been raised by either respondent with the management of the appellant. If no dispute at all was raised by the respondents with the management, any request sent by them to the Government would only be a demand by them and not an industrial dispute between them and their employer. An industrial dispute as defined, must be a dispute between employers and employer, employers and workmen and workmen and workmen. A mere demand to a Government, without a dispute being raised by the workmen with their employer, cannot become an industrial dispute. Consequently, the material before the tribunal clearly showed that no such industrial dispute, as was purported to be referred by the State Government to the tribunal, had ever existed between the appellant-Corporation and the respondents and the State Government, in making a reference, obviously committed an error in basing its opinion on material which was not relevant to the formation of opinion."

In order to show that the workman had raised a dispute over his dismissal, he relied upon a copy of a letter (Ex A marked subject to objection), dated April 25, 1970, addressed to the Superintendent Personnel, which is couched in the following language:

"Most respectfully I beg to state that I have been illegally and wrongfully dismissed from my service with effect from 22nd April, 1970, although I am quite innocent. I further beg to state that this is a got-up case against me and I have been punished for no fault of mine. Of course some enquiry was held but it was not a proper enquiry and the decision of the enquiry officer is not perfect.

I, therefore, beg of you to kindly look into my case and reinstate me in service which I so rightly deserve.

Thanking you and awaiting an early decision."

In his evidence, the dismissed workman stated that he personally handed over the letter to the Manager, Personnel, but did not obtain any receipt. The receipt of this letter was denied by the management. The only witness examined on behalf of the management, namely, Sukumar Siddhanta, stated in his evidence that he did not deal with the letter Ex. A in the office of Superintendent Personnel. I find it difficult to rely on Ex. A for following reasons:

(i) Ex. A is a mere copy and was filed during the course of the hearing. In paragraph 8 of the written statement it was only generally pleaded that the workman had raised an industrial dispute with the company; that the said dispute was raised by way of letter Ex. A was not indicated at any stage prior to the point of time when this letter was suddenly produced in the course of hearing, to the surprise of the management.

(ii) The letter was addressed to the Superintendent Personnel. But why the letter was handed over to the Manager Personnel without any receipt from him remains unexplained. If that letter be out of the picture, then the dispute reached the Conciliation Officer directly by way of a complaint made by the workmen, as appears from the records of the Conciliation Officer forwarded to this Tribunal. That attracts the condemnation made by the Supreme Court in the case mentioned above.

9. Turning now to the merits of the case, I do not find much in the Report made by the workman to the management on February 17, 1970 (Ex. 14), which may go to help him in his case. He was charged with misappropriation in respect of 54 items of store but the letter only covers 9 items. Then again, the letter writes that he discovered the shortages on February 12, 1970 but kept silent over the matter for some time, the reason being set out hereinbelow, in his own language, as in Exhibit 14:

"I did not report the matter to the Store Supervisor for a particular reason which I can tell you verbally alone—I determined that I cannot report to anybody except you."

At another place of the letter he writes:

"I told him (meaning Mr. Burman) that some bearing are not in the rack though it was checked by you and signed by me. You told me to make a list as far as possible. I told him that I will report only to MSS at his arrival and not to anybody as this is a serious occurrence xxx"

This Tribunal gave him further opportunity to explain the reason why he did not report earlier. The answer given by him was:

"I detected a shortage on February 12, 1970 and reported the shortage vide Ex. 14 on February 17, 1970. I did not report to the Store verifier. He had himself checked the particular goods in respect of which shortage had happened a few days earlier."

It does not appear from the Bin Cards, Ex. 6 series, that he was the person responsible for detecting the shortage which was made by another person whose signature I cannot read, see for example Exts. 6(39) and 6(42). I cannot, therefore, proceed on the basis of the hypothesis that he was an honest officer who fell victim of pilferage from the godown in his custody and made a report at the earliest opportunity.

10. So far as the enquiry proceedings are concerned, I am not convinced by the criticisms made on behalf of the workman. The enquiry proceedings I have examined from cover to cover. The workman signed on each page of the proceedings. He cross-examined a few witnesses but declined to cross-examine P.W. 1, 3, 6 and 7. The workman in his deposition before the Tribunal stated that he put his signature below the words 'cross-examination declined', because he did know the meaning of the word "decline". It is unworthy of acceptance because he is an English knowing person. That the proceedings were read out appears from the evidence of Sukumar Siddhanta and the endorsement made on the enquiry proceedings, which I find no reason to disbelieve. The records were given to the workmen but he could not explain in evidence why he did not read the same. I do not therefore find any substances in the contention that there was gross violation of the rules of natural justice in the conduct of the enquiry.

11. I am now left with the last criticism that others had access to the godown and the workman has been made a scape goat for the misdeeds of others. This

objection has been considered by the enquiry officer and his findings on the point are set out below:

"The delinquent in his explanation to the chargesheet admitted that the Bearings etc. of stores had been missing from his charge and those were entrusted to him. But he denied misappropriation or theft by him. His contention was that since the godown used to be kept open frequently by others during his absence and beyond office hours and hence this shortage. He also stated that Shri P. Das (PW 2) used to work and the Store Supervisor used to supervise his work in godown Nos. 1 and 2 also.

The delinquent also examined one witness in his favour vide DW 1 and proved that during the period from 2nd February, 1970 to 15th February, 1970 PW 2 did overtime on 3 occasions i.e. on 10th February, 1970 from 12 noon to 5-30 p.m.; on 11th February, 1970 from 5-30 p.m. to 8-30 p.m. and on 14th February, 1970 from 2-30 p.m. to 9 p.m. and the delinquent did not work on overtime on any date in the said period and he left the stores after the over of normal office hours.

Thus from the evidence of the D.W. it was found that PW 2 was on overtime job on 2 occasions after night-fall and on both occasions there were Tyndal Jamadar or a number of workers with him so the removal of materials stealthily by PW 2 was not possible and PW 4 proved that on 10th February, 1970 he locked the stores himself after 2-30 p.m. and made over the keys to PW 2 near the Petrol pump to hand over the same to the Stores Manager. So, on this occasion also there was no possibility of P.W. 2 to remove the materials from the Stores."

Thus, there is a finding based on evidence that although others had access to the godown, they had no chance of misappropriating them. I do not sit as a Court of appeal over the findings of the domestic tribunal, based on relevant evidence. I cannot therefore treat the finding against the workman as perverse, as was contended.

12. Since all the arguments advanced on behalf of the workman fail, I hold that the action of the management of Sodepur Workshop and Stores of Bengal Coal Company Ltd. in dismissing Mohan Lal Chatterjee, an Assistant Storekeeper, with effect from 22nd April, 1970 was justified. The workman is not entitled to any relief.

This is my award.

Dated, October 20, 1970.

(Sd.) B. N. BANERJEE,
Presiding Officer.
[No. 6/29/70-LRIL.]

S.O. 3686.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No.3), Dhanbad, in the industrial dispute between the employers in relation to the Bhowrah Coke Company, Post Office Bhowrah, District Dhanbad, and their workmen, which was received by the Central Government on the 26th October, 1970.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO 3) AT DHANBAD.

REFERENCE No. 79 OF 1968

PRESENT:

Sri Sachidanand Sinha, M.A.M.L., Presiding Officer.

PARTIES:

Employers in relation to the Bhowrah Coke Company and Their workmen.

APPEARANCES:

For the Employers.—S/Shri Jaya Narayan and S. S. Kapoor & B. N. Singh, Advocates.

For the workmen.—Sri Shanker Bose, General Secretary, Colliery Mazdoor Sangh.

INDUSTRY: Coal.

STATE: Bihar.

Camp at Puri, dated the 30th September, 1970

AWARD

1. The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Bhowrah Coke Company, Post Office Bhowrah, District Dhanbad and their workmen, by its order No. 2/5/67-LRII, dated the 3rd of February, 1967 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the Schedule annexed thereto. The Schedule is extracted below:—

SCHEDULE

- (a) Whether the termination of employment of Shri S. C. Chakravarty, General Assistant by the management of Bhowrah Coke Company, Post Office Bhowrah, District, Dhanbad with effect from the 6th September, 1960 was justified?
- (b) If not, to what relief is the workman entitled?

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 10 of 1967. While the dispute was pending there the Central Government by its order No. 8/25/67-LRII, dated the 8th of May, 1967 transferred the dispute to the Central Government Industrial Tribunal No. 2, Dhanbad and there the reference was registered as reference No. 208 of 1967. The Central Government by its subsequent order No. 8/71/68-LRII dated the 13th of August, 1968 transferred the dispute to this Tribunal and here it has been re-numbered as reference No. 79 of 1968.

3. The General Secretary, Coke Plant Mazdoor Seva Sangh filed written statement on 28th October, 1968. A rejoinder was also filed on behalf of the workmen on 29th March, 1969. The case of the Union is that the concerned workman Sri S. C. Chakravarty was employed as a General Assistant in the office of Bhowra Coke Plant. There was no properly functioning Trade Union of workers working in Bhowra Coke Plant resulting in great sufferings of the workers due to illegal actions of the employers. Therefore, the workers organised themselves into Trade Union and informed the management about the formation of the Union along with list of elected office bearers of the Union on 4th August, 1960. The list of office bearers of the Union was handed over to a representative of the management on 9th August, 1960 by the concerned workman who was elected Secretary of the Union.

4. It was Shri S. C. Chakravarty who took the initiative and organised the Union and was elected Secretary by the General Body members of the Union for which he earned serious displeasure of the management. The management did not appreciate the formation of the Union and decided to nip it in the bud by victimising the organisers. The management therefore, thought it fit to punish Sri Chakravarty so that the general body of workers in general and the organisers of the Union in particular may cease to take any further interest in the Union affairs causing un-natural death of the Union in its infancy.

5. The management issued an order of transfer of the services of Sri Chakravarty from Bhowra Coke Plant to a Firebrick Plant out of Bhowra by letter dated 16th August, 1960. The concerned workman Sri Chakravarty protested against the said order of transfer on two grounds, firstly the services of the workman was not transferable and secondly the Firebrick Plant was a separate establishment.

6. The management was bent upon punishing the concerned workman for his trade union activities and suspended him from 20th August, 1960. The management neither held any enquiry nor offered any opportunity to the workman to defend his case and with a predetermined motive dismissed the concerned workman Sri Chakravarty from his services by a letter dated 16th September, 1960 and directed him to vacate his quarters within 72 hours.

7. According to the union the transfer order and subsequent actions of the management in dismissing Shri Chakravarty was illegal, unjustified, mala fide and it amounts to victimization for his trade union activities. The Union therefore, prayed that it may be declared that the action of the management in terminating the services of Sri S. C. Chakravarty, General Assistant is un-justified and the management may be ordered to reinstate the concerned workman in his original post of General Assistant with full back wages allowances, bonus and all other dues as if he was in employment till the date of reinstatement.

8. The employers filed written statement on 30th December, 1968. Their case is that the present reference is bad in law. The following stands are taken by the employers in paras 3, 4, and 5 of their written statement which are given below:—

3. that the notification of the Government of India withdrawing the entrustment of its functions from the Bihar Government in respect of the Bhowra Coke Plant is discriminatory and bad in law.
4. that the dispute referred is not an industrial dispute.
5. that the Company deals in other lines of business, apart from manufacture of Coke and therefore, is not a "controlled industry" as envisaged under section (2) of the Industries (Development and regulation), Act, 1951, and is not an industry specified under sections (2)(i)(a) of the Industrial Disputes Act. In a dispute in which the Bhowra Coke Company is made a party, the Central Government, therefore, is not the "Appropriate Government".

9. On facts the case of the management is that the concerned workman Sri S. C. Chakravorty was employed in the year 1946 on a salary of Rs. 35 (basic) per month. The services of Sri S. C. Chakravorty was most unsatisfactory but considering the facts that he was an old employee the management had compassionately allowed him quarter and permitted him to continue in service.

10. On 16th of August, 1960, the management transferred him to its firebrick plant at Kumarjuri posting him as a clerk and directed him to report to duty before the Manager there at 8 a.m. on the 18th August, 1960 on following terms:—

- (a) Free quarters.
- (b) Emoluments then enjoyed to continue.
- (c) An additional personal allowance of Rs. 10.00 per month.

11. But Sri S. C. Chakravorty denied this valid and lawful order of transfer and on his non-compliance with the Company's order of transfer, the Company by its letter dated 20th August, 1960 suspended him on a subsistence allowance of Rs. 45 per month and again requested him to vacate the quarter which he was occupying.

12. A departmental enquiry was held on the 26th August, 1960. In the departmental proceeding Sri S. C. Chakravorty maintained that his service was not transferable and inspite of repeated directions Sri Chakravorty, the concerned workman refused to join his duty at Kumarjuri. The management was left with no course other than terminating the services of the concerned workman Sri Chakravorty with effect from 6th of September, 1960 after having held a full scale enquiry and after having given Sri Chakravorty every opportunity to explain his conduct.

13. Therefore, according to the management the concerned workman Sri S. C. Chakravorty is not entitled to any relief.

14. On behalf of the management 2 witnesses were examined viz. MW-1 Sri C. S. Mukherjee, who is Works Manager of Bhowra Coke Company and MW-2 Sri Khedu Mahato. They also filed 25 items of documents which are exhibited as Ext. M-1 to M-15. On behalf of the Union only one witness WW-1 Sri S. C. Chakravorty, the concerned workman was examined and 23 items of documents were filed and they are marked as Ext. W-1 to W-23.

15. The point for determination is whether the management was justified in terminating the services of Sri S. C. Chakravorty, the concerned workman with effect from the 6th of September, 1960?

16. I shall first deal with the points of law raised on behalf of the management in para 4 of their written statement. The objection taken by the management is that the dispute referred to is not an industrial dispute. The case of the management is that it was an individual dispute as it was in respect to one individual workman. Sri S. C. Chakravorty, the concerned workman was dismissed with effect from the 6th of September, 1960 vide Ext. M-4.

17. The case of the management is that his case was not sponsored by the Bhowra Coke Plant Workers Union which was only union then in existence and that there was no such union known as Bhowra Coke Plant Mazdoor Seva Sangh on 6th September, 1960 when the workman was dismissed and that the Bhowra Coke Plant Mazdoor Seva Sangh was registered on the 27th of December, 1960 and that the concerned workman Sri Chakravorty informed the management

regarding the formation of Bhowra Coke Plant Mazdoor Seva Sangh on the 26th of September, 1960 (vide Ext. M-16).

18. Therefore, the case of the management is that on 6th September, 1960 when the concerned workman was dismissed the Bhowra Coke Plant Mazdoor Seva Sangh was not in existence and the case of the concerned workman was not taken up by the Bhowra Coke Plant worker's Union which was the only union in existence on 6th September, 1960 and therefore, it is an individual dispute.

19. It is well settled that a dispute between an employer and a single employee could become an industrial dispute even if it is taken up by a number of workmen. Before a dispute can be called industrial dispute it must have the backing of substantial number of employees. Where the union takes up the cause of an individual workman it signifies a concerted action on the part of the workman who are the members of that union.

20. In the case of Indian Cable Co. Ltd. and its workmen, reported in 1962(1) L.L.J., page 409 it has been observed by their Lordships that the dispute of a single workman would become industrial dispute when it is sponsored by a Union or by a considerable number of workmen, although no hard and fast rule can be laid down to the number of workmen which must depend on the facts and nature of dispute in each case.

21. The case of the Union is that the concerned workman was a member of Bihar Coke Plant Mazdoor Seva Sangh on the date of his dismissal i.e. on 6th September 1960. The failure of conciliation report shows that the dispute was raised by the Coke Plant Mazdoor Seva Sangh and they sponsored the case of the concerned workman before the Assistant Labour Commissioner.

22. Before the Assistant Labour Commissioner the objection raised by the management was that the Coke Plant Mazdoor Seva Sangh was not a recognised union. The Assistant Labour Commissioner by his letter dated 23rd of December, 1960 had informed the management that even a union which is not recognised can raise a dispute in respect of the workmen who are their members (vide Ext. W-13).

23. The case of the Union is that the Coke Plant Mazdoor Seva Sangh was organised on the 4th of August, 1960. Ext. W-20 is the membership register of Bhowra Coke Plant Mazdoor Seva Sangh for the year 1960. According to the Union it contains the names of the initial members. This register also shows that it was examined by the Inspector of trade union on 19th September 1960. Ext. W-21 is also membership register for the year 1960 and it also contains the resolution by which the Bhowra Coke Plant Mazdoor Seva Sangh was constituted.

24. According to the resolution it was constituted by a resolution which was unanimously passed at the general meeting held at Bhowra on the 4th of August, 1960 and on the 4th of August, 1960 the Union, namely Bhowra Coke Plant Mazdoor Seva Sangh was formed. This register (Ext. W-21) is also inspected by one Mr. Hassan, Inspector of Trade Union. There can not be any doubt about the genuineness of these 2 registers (Ext. W-20 and 21) as they are inspected by the Inspector of Trade Union.

25. Ext. W-23 is the register of membership of Bhowra Coke Plant Mazdoor Seva Sangh for the period from November, 1960 to December, 1969. It shows the names of members of all the years stated above. The case of the union is that this Union was registered on the 27th of December, 1960 (vide Ext. W-11) and that it was later on affiliated to the Indian National Trade Union Congress on the 7th of August, 1961 (vide Ext. W-14).

26. Ext. W-15 is the General Secretary's report for the year 1969 for Indian National Mine Workers Federation and it shows that the Coke Plant Mazdoor Seva Sangh, Bhowra was affiliated with it (vide Ext. W-15 page 74, item No. 6). Ext. W-16 is a letter addressed by the concerned workman Sri S. C. Chakravorty to the management. It is dated 9th of August, 1960. By this letter the concerned workman Sri S. C. Chakravorty informed the management that on the 4th of August, 1960 the Bhowra Coke Plant Mazdoor Seva Sangh was constituted. The case of the Union is that this letter was handed over personally to Sri M. Das Gupta, P.A. to the Works Manager on the same date i.e. on 9th August, 1960 and a receipt was obtained from him (vide Ext. W-17). On the other hand the case of the management is that they did not receive any such letter as Ext. W-16 and that Ext. W-17 is not genuine.

27. The circumstances show that the concerned workman Sri S. C. Chakravorty submitted the letter Ext. W-16 to the management on the 9th of August, 1960

informing them that an Union was formed known as Bhowra Coke Plant Mazdoor Seva Sangh on the 4th of August, 1960. Ext. W-16 therefore, shows that the management was informed about the formation of the Coke Plant Mazdoor Seva Sangh on the 9th of August, 1960.

28. The evidence discussed above goes to show that the Coke Plant Mazdoor Seva Sangh was organised on the 4th of August, 1960 and therefore, this Union was in existence on the date the concerned workman was dismissed i.e. on 6th September 1960 and the dispute was raised by that Union and they espoused the cause of the concerned workman before the Assistant Labour Commissioner. The dispute, therefore, has been taken up by the Coke Plant Mazdoor Seva Sangh and it has become an Industrial dispute. I therefore, answer this point in favour of the Union.

29. It is further stated on behalf of the management that in the dispute in which Bhowra Coke Company is made a party, the Central Government is not the appropriate Government because the Company deals in other lines of business apart from manufacture of coke and therefore, is not a controlled industry as envisaged under section 2 of the Industrial (Development and regulation) Act, 1951 and is not an industry specified under Section 2(i)(a) of the Industrial Disputes Act.

30. In this connection I mention briefly the facts giving rise to this reference.

31. In a previous dispute the State Government by its order dated 11th of November, 1961 referred the dispute to the Labour Court, Ranchi. But the Labour Court held that the State Government had no jurisdiction to make such reference under section 10(1)(d) of the Industrial Disputes Act, 1947. Thereupon the State Government issued another notification dated the 24th of February, 1964 referring the industrial dispute to the Labour Court, Ranchi for decision.

32. In that dispute between the management of Bhowra Coke Plant and their workmen concerning the dismissal of Sri S. C. Chakravorty, being reference No. 5 of 1964, the management filed written statement (*vide* Ext. W-1) and in para one of that written statement the management stated that the Bhowra Coke Plant **which was engaged in manufacture of production of coke and other derivatives, is a controlled industry which has been specified as such by the Central Government by a Notification, being SRO. 68, published in the Gazette of India, part—II-Sec. 3(ii) dated 5th January, 1957 and that as the Bhowra Coke Plant is a controlled industry, the Government of Bihar is not the appropriate authority under section 2(a) of the Industrial Disputes Act, 1947.**

33. Ext. W-2 is the judgement of High Court. This matter went upto the High Court and was decided by the High Court on the 29th of April, 1966 up-holding the contention of the management. The contention of the management in para 1 and 2 of their written statement was upheld by the High Court. In the previous dispute it was admitted by the management that the Bhowra Coke Plant is a controlled industry. During the arguments this point was also not seriously pressed by the management, and therefore, I hold this point also in favour of the Union.

34. The management in para 3 of their written statement have alleged that the Notification of the Government of India withdrawing the entrustment of its functions from the Bihar Government in respect of the Bhowra Coke Plant is discriminatory and bad in law.

35. Briefly the facts giving rise to this reference may be stated as follows:—

In 1958, by a notification No S.O. 783 of the 6th May, 1958, the Central Government in exercise of the powers conferred on them by clause (1) of Article 258 of the Constitution entrusted with the Government of Bihar the functions of the Central Government under the Industrial Disputes Act, 1947, in so far as they related to the Industrial Disputes concerning the industrial establishments in the schedule. One of the establishments so specified was Bhowra Coke Plant of Bhowra Coke Company. By a subsequent notification No. S.O. 2465 dated the 4th of October, 1960, the Central Government by way of modification of the previous notification omitted Bhowra Coke Plant of Bhowra Coke Company from the list of industrial establishments in in respect of which the Central Government's function was entrusted with the State Government. In consequence of this amended notification the State Government ceased to have jurisdiction to exercise the function of the Central Government in so far as it related to industrial disputes concerning Bhowra Coke Plant of Bhowra Coke Company.

36. This matter was subsequently decided by the High Court on the 29th of April, 1966 that the dispute will not come under the perview of the State Government and that the State Government could not make a valid reference either in 1961 or in 1964, so far as this industrial establishment is concerned (*vide* Ext. W-2).

37. Ext. M-2 is the copy of the notification No. S.O. 2465 dated the 4th of October, 1960, published in the Gazette of India. By this notification the Central Government by way of modification of previous notification omitted Bhowra Coke Plant of Bhowra Coke Company from the list of industrial establishment in respect of which the Central Government's function was entrusted with the State Government.

38. The management has challenged Ext. M-2 as unconstitutional and violating the principle laid down in Article 14 of the Constitution. The management have challenged the vires of the notification dated 4th October, 1960 (Ext. M-2), i.e. they have challenged the constitutionality of notification dated 4th October, 1960.

39. The case of the management is that it is not open to the Government to differentiate and discriminate between the parties similarly placed and circumstanced in every respect and in this connection they have invoked article 14 of the Constitution which runs as follows:

"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India".

40. Article 14 confers a right by enacting a prohibition which in form, at least, is absolute. But Article 14 as interpreted by the courts, would run in some such words as these: "The State shall not deny to any person equality before the law or equal protection of the law provided that nothing herein contained shall prevent the State from making a law based on or involving a classification founded on an intelligible differentia having a rational relation to the object sought to be achieved by the law."

41. It is now well settled that law in Article 14 is not confined to the law enacted by legislature, but includes any order or notification. Thus Article 14 protects a person not only against legislation but also against executive orders of notification.

42. The true meaning and scope of Article 14 has been explained in several decisions of the Supreme Court. They were referred to and their effect summarised by Das C. J. in Dalmia's case reported in 1959 S.C.R., 279. The following propositions are established by Dalmia's case and the other cases to which it refers:

(a) Article 14 condemns discrimination not only by substantive law but by a law of procedure.

(b) Article 14 forbids class legislation but does not forbid classification.

(c) Permissible classification must satisfy two conditions, namely.

(i) It must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from other left out of the group, and

(ii) the differentia must have a rational relation to the object sought to be achieved by the statute in question.

(d) Even a single individual may be in a class by himself on account of some special circumstances or reasons applicable to him and not applicable to others; a law may be constitutional even though it relates to a single individual who is in a class by himself;

(e) There is always a presumption in favour of the constitutionality of an enactment and the burden is upon him who attacks it to show that there has been a clear transgression of the constitutional principles."

43. As stated above in the previous dispute the State Government by its order dated the 11th of November, 1961 referred the dispute to the Labour Court, Ranchi. But the Labour Court, Ranchi held that the State Government had no jurisdiction to make a reference under Section 10(1)(d) of the Industrial Disputes Act. Therefore, the State Government issued another notification referring the said industrial dispute to the Labour Court, Ranchi for decision and it was numbered as reference No. 5 of 1964.

44. In the written statement filed by the management before the Labour Court, Ranchi the stand of the management was that the Bhowra Coke Plant is a controlled industry, and that the State Government was not the appropriate authority under section 2(1) of the Industrial Disputes Act, 1947. Subsequently the matter was decided by the High Court on the 29th of April, 1966 that the dispute will

not come under the purview of the State Government and it was also held that the State Government can not make a valid reference so far as this industrial establishment is concerned.

45. In this connection it is to be noted that in the year 1958 by a notification No. S.O. 783 of the 6th May, 1958, the Central Government in exercise of the powers conferred on them by clause (1) of Art. 258 of the Constitution entrusted with the Government of Bihar the functions of the Central Government under the Industrial Disputes Act, 1947 in so far as they related to the Industrial Disputes concerning the industrial establishments in the schedule.

46. One of the establishments so specified was Bhowra Coke Plant of Bhowra Coke Company. By a subsequent notification No. S.O. 2465 dated the 4th October, 1960, the Central Government by way of modification omitted Bhowra Coke Plant of Bhowra Coke Company from the list of industrial establishments in respect of which the Central Government's function was entrusted with the State Government.

47. In consequence of this amended notification the State Government ceased to have jurisdiction to exercise the function of the Central Government in so far as it related to industrial disputes concerning Bhowra Coke Plant of Bhowra Coke Company.

48. The High Court at Patna on the 29th of April, 1966 relying on the validity of the notification No. S.O. 2465 dated the 4th October, 1960 (Ext. M-2) held that the dispute will not come under the purview of the State Government and that the State Government could not make a valid reference so far as this industrial establishment is concerned. And this was the stand of the management in reference No. 5 of 1964.

49. The management is therefore, estopped from taking the plea contrary to their own earlier stand. By taking this stand that the Central Government is the appropriate Government in the previous dispute in reference No. 5 of 1964 before the Labour Court, Ranchi, it is not open to the management to challenge the vires of the aforesaid notification (Ext. M-2) in the present reference.

50. The management has accepted the position in the written statement in reference No. 5 of 1964 before the Labour Court, Ranchi. There is no warrant for the suggestion that such discretion will be exercised by the appropriate Government arbitrarily or capriciously so as to prejudice the interests of any of the parties concerned.

51. In this view of the case I am of the opinion that there is no substance in the contention of the management that the notification (Ext. M-2) is unconstitutional and void as infringing the fundamental rights guaranteed under Article 14 of the Constitution.

52. I now come to the merit of the case of the respective parties. The case of the Union is that the transfer order and subsequent action of the management in dismissing Sri S. C. Chakravorty was *mala fide* and amounts to victimization for his Trade Union activities.

53. The case of the Union is that by an unanimous resolution at a general meeting of the Bihar Coke Plant Mazdoor held on 4th August, 1960 the present union was formed. In this connection they have filed Ext. W-21, the membership register for the year 1960 containing that resolution.

54. By letter dated 9th August, 1960, by Sri S. C. Chakravorty, the concerned workman, the management was informed about the formation of this Bhowra Coke Plant Mazdoor Seva Sangh (*vide* Ext., W-16). Therefore, according to the union intimation regarding formation of the Union was communicated by letter dated 9th August, 1960 (Ext. W-16) and the same was delivered to the P.A. of the Works Manager on 9th August, 1960 and a receipt was obtained from the P.A. to the Works Manager *vide* Ext. W-17).

55. Immediately after this the concerned workman Sri S. C. Chakravorty was transferred from the Bhowra Coke Plant to the Fire Brick Plant at Kumarjuri by letter dated 16th of August, 1960 and he was asked to join at Kumarjuri on 18th August, 1960 at 8 A.M. and also to vacate the quarter occupied by him. He was allowed his present emoluments plus personal allowance of Rs. 10 per month. On receipt of this letter of transfer Sri S. C. Chakravorty, the concerned workman protested by letter dated 17th of August, 1960 (*vide* Ext. W-7). In that letter he alleged that he was employee of the Coke Plant and that according to the service condition he was not transferable to any other plants and that he was being transferred for his trade union activities and that the order of transfer is *mala fide*.

56. He was thereupon chargesheeted (*vide* Ext. W-8) on the 20th of August, 1960. He was charged with misconduct for wilful disobedience and failure, neglect and refusal to obey lawful order of transfer. He replied to the chargesheet in which he alleged that he was an employee of the Bhowra Coke Plant and that the order of his transfer to some other plant elsewhere could not at all arise that the fire bricks plant was altogether a separate establishment and he can not be transferred to the fire bricks plant.

57. It appears that after holding the departmental enquiry the management terminated the services of the concerned workman Sri S. C. Chakravorty with effect from the 6th of September, 1960 (*vide* Ext. W-10).

57(A). The management has filed the enquiry proceeding which is Ext. M-22. From the enquiry proceeding it appears that no witness was examined on behalf of the management and that only Sri Chakravorty, the concerned workman was examined and certain question were put to him by the management to which he gave reply. The enquiry proceeding is not signed by the concerned workman Sri S. C. Chakravorty.

58. Ext. M-23 is enquiry report in which it is stated that Sri S. C. Chakravorty had all along maintained that Bhowra Coke Plant and the Fire Bricks Plant at Kumarjuri were two separate establishments and he could not be transferred from one establishment to the other. According to the concerned workman Sri S. C. Chakravorty no enquiry was held in his presence and that no notice was served on him regarding the departmental enquiry.

59. Ext. W-10 is the letter dated 6th of September, 1960 terminating the services of the concerned workman Sri S. C. Chakravorty. This also does not mention that the enquiry was held by the Works Manager on the 26th of August, 1960 in his presence. No witness was examined by the management in the departmental proceeding and there is no evidence that any notice of enquiry was issued by the management fixing the time and date of enquiry.

60. In this connection I may refer the Supreme Court case of Associated Cement Companies Ltd. and the workmen and another, reported in 1963(2)LL.J., page 396. There the Lordship observed as follows:—

"It is necessary to emphasise that in domestic enquiries the employer should take steps first to lead evidence against the workman charged, give an opportunity to the workman to cross-examine the said evidence and then should the workman be asked whether he wants to give any explanation about the evidence led against him. It seems to us that it is not fair in domestic enquiries against industrial employees that at the very commencement of the enquiry, the employee should be closely cross-examined even before any other evidence is led against him. In dealing with domestic enquiries held in such industrial matters, we cannot overlook the fact that in a large majority of cases, employees are likely to be ignorant, and so, it is necessary not to expose them to the risk of cross-examination in the manner adopted in the enquiry proceedings in the instant case "

61. In this view of the case I find that the enquiry conducted by the management in this case was neither proper nor fair.

62. The transfer order was passed by the management immediately after the formation of the Coke Plant Mazdoor Seva Sangh and the evidence adduced before me goes to show that the order of transfer was not *bona fide*, but was passed in order to victimise the concerned workman Sri S. C. Chakravorty.

63. The stand taken by the union is that Sri S. C. Chakravorty could not have been transferred from Bhowra Coke Plant to the Fire Brick Plants at Kumarjuri because they are two separate industrial establishments and by service condition of Sri Chakravorty, his post was not transferable to any other industrial establishment, and as such the transfer order of the concerned workman transferring him from Bhowra Coke Plant to Fire Brick Plants at Kumarjuri was unjustified, illegal and *mala fide*. According to the Union Sri S. C. Chakravorty, the concerned workman was an employee of the Bhowra Coke Plant and he was governed by the service condition as mentioned in the certified standing orders (Ext. M-18), which is in respect to all the employees of the Coke Plant, situated at Bhowra. The case of the Union is that the Standing Order Ext. M-18 is not in respect to the employees of Fire Bricks Plant at Kumarjuri.

64. In this connection I give below the nature of the establishment viz. Bhowra Coke Plant and Bhowra Fire Brick Plant as has transpired from the evidence of MW-1 Sri C. S. Mukherjee, the Works Manager of Bhowra Coke Company. He has stated in his evidence that in the year 1946 the Bhowra Coke Co. took the lease from the Eastern Coal Co. and they were the lessee of the Eastern Coal Co. From his evidence it appears that the Fire Brick Plant was not in existence when the Eastern Coal Co. granted the lease in the year 1946 and that the Fire Brick Plant was not in their original lease. It appears that the Fire Brick Plant came in existence after the lease was granted to the Bhowra Coke Co. in the year 1946.

65. In the year 1956 the Eastern Coal Co. sold the properties to M/s. Karamchand Thapar & Bros. (P) Ltd. and that the Karamchand Thapar & Bros. (P) Ltd. became the owner of the lease-hold property and they objected to the continuance of the Fire Brick Plant at Bhowra and they also brought a case in this connection prohibiting the Fire Plant at Bhowra and they obtained injunction from the Court in that connection. Ultimately the Fire Brick Plant at Bhowra was closed and in the year 1957 it was shifted at Kumarjuri which is at a distance of 30 miles from Bhowra.

66. He further stated that Bhowra Coke Co. is the propriety concern of which Sri S. K. Roy is the sole proprietor and similarly the Fire Brick Plant is also a propriety concern and is owned by Sri S. K. Roy.

67. It is not disputed that the ownership of Bhowra Coke Plant and Fire Brick Plant is in the same person viz. Sri S. K. Roy who is the proprietor. Subsequently the Fire Brick Plant at Kumarjuri has been sold to 3rd party between the period 1962 to 1964.

68. No paper has been filed on behalf of the management to show that the workmen of Bhowra Coke Plant and Bhowra Fire Brick Plant are interchangeable. No paper has also been filed in order to show that the workmen of Bhowra Coke Plant were engaged in erecting Fire Brick Plant. According to the Union the Coke Plant and Fire Brick Plant were concerns having no connection with each other.

69. Therefore, here we find that they were two different industrial establishments one at Bhowra in respect to Coke Plant and other at Kumarjuri in respect to the Fire Brick Plant. Though they were owned by the same proprietor but they were functioning at two different places i.e. one at Bhowra manufactures Coke and other at Kumarjuri manufactures Fire Brick and as such they are separate industrial establishments.

70. The question as to whether industrial establishments owned by the same management constitute separate units or one establishment has been considered by the Supreme court on several objections. Although several factors are relevant in deciding this question, yet it is important to bear in mind that the significance or importance of these relevant factors would not be the same in each case. Whether or not the two units constitute one establishment or really two separate and independent units, must be decided on the facts of each case.

71. In this particular case I find that the industrial establishments are situated at two different places, manufacturing different products and therefore, I hold that the industrial establishment at Bhowra was one industrial establishment and that the industrial establishment at Kumarjuri was a separate industrial establishment and therefore, the order of transfer dated the 16th of August, 1960 (Ext. M-6) was *malafide*, unjust and illegal and that it was passed as an act of unfair labour practice and victimization of the concerned workman Sri S. C. Chakravorty for his union activities.

72. In this view of the case I hold that the termination of the concerned workman Sri S. C. Chakravorty, General Assistant by the management of Bhowra Coke Company with effect from the 6th of September, 1960 was not justified. Sri Chakravorty, the concerned workman is therefore, entitled to be reinstated with full back wages, allowances, bonus and all other dues as if he was in employment all throughout from the date of his suspension till his reinstatement.

73. This is my award. It may now be submitted to the Central Government under Section 15 of the Industrial Disputes Act, 1947.

(Sd.) SACHIDANAND SINHA,
Presiding Officer.

[No. 2/5/67-LRII.]

ORDERS

New Delhi, the 27th October 1970

S.O. 3687.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Benalee Colliery, Post Office Nandi, District Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

- “(1) Whether the management of Benalee Colliery, Post Office Nandi, District Burdwan was justified in declaring a lock-out with effect from the 6th August, 1970 and continuing the same upto the 28th August, 1970?
- (2) Whether the action of the management of Benalee Colliery, Post Office Nandi, District Burdwan in declaring a closure of the colliery with effect from the 29th August, 1970 as per their notice dated the 28th August, 1970 is legal and justified?
- (3) To what relief are the workmen entitled to in the two cases above?”

[No. 6/55/70-LRII.]

आदेश

नई दिल्ली, 27 अक्टूबर, 1970

क्रा० आ० 3687.—यतः केन्द्रीय सरकार की राय है कि इससे उपाबद्ध अनुसूची में विनिर्दिष्ट विषयों के बारे में बेनाली कोयलाखान, डाकघर नन्दी, जिला बर्दवान के प्रबन्धतंत्र से सम्बद्ध नियोजकों और उनके कर्मकारों के बीच एक औद्योगिक विवाद विद्यमान है;

और यतः केन्द्रीय सरकार उक्त विवाद को न्यायनिर्णयन के लिए निर्देशित करना वांछनीय समझती है;

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 10 की उपधारा (1) के खण्ड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त विवाद को उक्त अधिनियम की धारा 7-क के अधीन गठित औद्योगिक अधिकरण, कलकत्ता को न्यायनिर्णयन के लिए निर्देशित करती है।

अनुसूची

- “(1) क्या बेनाली कोयलाखान, डाकघर नन्दी, जिला बर्दवान, के प्रबन्धतंत्र का 6 अगस्त, 1970 से तालाबन्दी घोषित करना और उसे 28 अगस्त, 1970 तक जारी रखना न्यायोचित था ?
- (2) क्या बेनाली कोयलाखान, डाकघर नन्दी जिला बर्दवान के प्रबन्धतंत्र की अपनी तारीख 28 अगस्त, 1970 वाली सूचना के अनुसार कोयलाखान को 29 अगस्त, 1970 से बन्द करने की कार्यवाही वैध और न्यायोचित है ?
- (3) उपर्युक्त दो मामलों में कर्मकार किस अनुतोष के हकदार हैं ?”

New Delhi, the 28th October 1970

S.O. 3688.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management, Bankola Colliery, Post Office Ukhra, District Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

"Whether the management of Bankola Colliery of Messrs Burrakur Coal Company Limited, Post Office Ukhra, District Burdwan was justified in stopping from work Shri Rama Show, Cleaning Mazdoor from the 17th April, 1970?"

"If not, to what relief the workman is entitled?"

[No. 1/45/70-LRIL]

नई दिल्ली, 28 अक्टूबर, 1970

का० प्रा० 3688.—यतः केन्द्रीय सरकार को राय है कि इससे सम्बद्ध अनुसूची में विनिर्दिष्ट विषयों के बारे में बंकोला कोलियरी, डाकघर उखरा, जिला बर्दवान के प्रबन्धतंत्र से सम्बद्ध नियोजकों और उनके कर्मकारों के बीच एक औद्योगिक विवाद विद्यमान है;

और यतः केन्द्रीय सरकार उक्त विवाद को न्यायनिर्णयन के लिए निर्देशित करना वांछनीय समझती है;

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 10 की उपधारा (1) के खण्ड (घ) द्वारा प्रदत्त शक्तियों को प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त विवाद को उक्त अधिनियम की धारा 7-क के अधीन गठित औद्योगिक अधिकरण, कलकत्ता को न्यायनिर्णयन के लिए निर्देशित करती है।

अनुसूची

"क्या मैपर्स बुराकुर कोल कम्पनी लिमिटेड, डाकघर उखरा, जिला बर्दवान की बंकोला कोलियरी के प्रबन्धतंत्र द्वारा श्री राम शो, क्लीनिंग मजदूर को 17 अप्रैल, 1970 से काम से हटाना याचित था? यदि नहीं, तो कर्मकार किस अनुनीष का हकदार है।"

[मं० 1/45/70-एल.प्रार-2]

S.O. 3689.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of South Bulliari Kendwadih Colliery of Messrs East Indian Coal Company Limited, Post Office Kusunda (Dhanbad) and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal (No. 2) Dhanbad constituted under section 7A of the said Act.

SCHEDULE

"Whether the action of the management of South Bulliari Kendwadih Colliery of Messrs East Indian Coal Company Limited, Post Office

Kusunda (Dhanbad) in suspending Shri S. D. Choubey, Mining Sirdar (E.B. No. 33520) from the 3rd January, 1970 to 8th January, 1970 as a measure of punishment is justified? If not, to what relief is the workman concerned entitled?"

[No. 2/83/70-LR.II.]

का० प्रा० 3689.—यतः केन्द्रीय सरकार की राय है कि इससे उपाबद्ध अनुसूची में विनिर्दिष्ट विषयों के बारे में मेसर्स ईस्ट इंडियन कोल कंपनी लिमिटेड, डाकघर कुमुन्डा (धनबाद) की दक्षिण हुलियारी कैंडवाइड कोयलाखान के प्रबन्धतंत्र से सम्बद्ध नियोजकों और उनके कर्मकारों के बीच एक औद्योगिक विवाद विद्यमान है;

और यतः केन्द्रीय सरकार उक्त विवाद को न्यायनिर्णयन के लिए निर्देशित करना वांछनीय समझती है;

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 10 की उप-धारा (1) के खण्ड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त विवाद को उक्त अधिनियम की धारा 7-क के अधीन गठित केन्द्रीय सरकार औद्योगिक अधिकरण (सं० 2) धनबाद को न्यायनिर्णयन के लिए निर्देशित करती है।

अनुसूची

"क्या मेसर्स ईस्ट इंडियन कोल कंपनी लिमिटेड, डाकघर कुमुन्डा (धनबाद) की दक्षिण हुलियारी कैंडवाइड कोयलाखान के प्रबन्धतंत्र की श्री एस० डी० चौबे, खनन सरदार (ई० बी० सं० 33520) को सजा के रूप में 3 जनवरी, 1970 से 9 जनवरी, 1970 तक निलम्बित करने की कार्यवाही न्याय्योचित है? यदि नहीं तो संबंधित कर्मकार किस अनुतोष का हकदार है?"

[सं० 2/83/70-एलआर-II]

S.O. 3690.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Victory Colliery (M.J. Goup) of Messrs Coal Products Private Limited, Post Office Nutandanga, District Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

"Whether the management of Victory Colliery (M.J. Group) of Messrs Coal Products Private Limited, Post Office Nutandanga, District Burdwan was justified in dismissing Shri S. M. Ghosh, Overman from the 2nd January, 1970. If not, to what relief is the workman entitled?"

[No. 6/40/70-LR.II.]

का० प्रा० 3690.—यतः केन्द्रीय सरकार की राय है कि इससे उपाबद्ध अनुसूची में विनिर्दिष्ट विषयों के बारे में मेसर्स कोल प्रोडक्ट्स प्राइवेट लिमिटेड, डाकघर नूतन डांगा, जिला बर्दवान की विक्टरी कोयलाखान (एम० जी० ग्रुप) के प्रबन्धतंत्र से सम्बद्ध नियोजकों और उनके कर्मकारों के बीच एक औद्योगिक विवाद विद्यमान है;

और यतः केन्द्रीय सरकार उक्त विवाद को न्यायनिर्णयन के लिए निर्देशित करना वांछनीय समझती है;

अतः, अब, औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 10 की उपधारा (1) के खण्ड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त विवाद को उक्त अधिनियम की धारा 7-क के अधीन गठित केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता, को न्यायनिर्णयन के लिए निर्देशित करती है।

अनुसूची

“क्या मेसर्स कोल प्रोडक्ट्स प्राइवेट लिमिटेड, डाकघर नूतनडांगा, जिला बर्दवान की धक्करी कोयलाखान (एम० जी० ग्रुप) के प्रबन्धतंत्र का श्री एस० एम० घोष, ओवरमैन को 2 जनवरी, 1970 से पदच्युत करना न्यायोचित था ? यदि नहीं तो कर्मकार किस अनुतोष का हकदार है ?”

[सं० 6/40/70 एल आर-II]

New Delhi, the 3rd November 1970

S.O. 3691.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Messrs Oil India Limited, Duliajan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal with Shri G. N. Borah as Presiding Officer, with headquarters at Dibrugarh and refers the said dispute for adjudication to the said Industrial Tribunal.

SCHEDULE

“Whether the dismissal of Shri Sadanand Deka, Regd. No. 9/0907, by the management of Oil India Limited, Duliajan was justified? If not, to what relief is he entitled?”

[No. 25/10/69-LR.IV.]

P. C. MISHRA, Under Secy.

नई दिल्ली 3 नवम्बर, 1970

का० आ० 3691.—जब कि केन्द्रीय सरकार की यह राय है कि उसके साथ शामिल की गई अनुसूची में विषय रूप में कहे गये विषयों के बारे में मेसर्स आयल इंडिया लिमिटेड, दुलियाजन के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मकारों के दरमियान एक औद्योगिक विवाद विद्यमान है।

और, जब, कि केन्द्रीय सरकार उक्त विवाद को न्याय के लिए भेजना बांछनीय समझती है,

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के खण्ड 7-क और खण्ड 10 के उप-खण्ड (1) की धारा (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा एक औद्योगिक अधिकरण गठित करती है जिसके पीठासीन अधिकारी श्री जी० एन० बोराह होंगे, जिनका मुख्यालय दिब्रुगढ़ होगा और उक्त विवाद उक्त औद्योगिक अधिकरण को न्याय के लिए भेजती है।

अनुसूची

“क्या आयल इंडिया लिमिटेड, दुलियाजन के प्रबन्ध द्वारा श्री सदानन्द डेका, रजिस्टर्ड नं० 9/0907 की पदच्युति न्यायोचित थी ? यदि नहीं, तो वह किस राहत के हकदार है ?

[सं० 25(10)/69-एल आर-4]

पी० सी० मिश्रा, अवर सचिव।

(Department of Labour & Employment)

New Delhi, the 30th October 1970

S.O. 3692.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal No. 2, Bombay, in the industrial dispute between the employers in relation to the New Great Insurance Company of India Limited, Nagpur and their workmen, which was received by the Central Government on the 22nd October, 1970.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2,
AT BOMBAY

REFERENCE No. CGIT-2/13 of 1969

Employers in relation to The New Great Insurance Company of India
Limited, Nagpur

AND

Their Workman

PRESIDENT.

Shri N. K. Vani, Presiding Officer.

APPEARANCES:

For the employer—1. Shri N. B. Mor, Advocate.

2. Shri P. N. Majumdar, Sub-Divisional Manager.

For the workman—1. Shri S. J. Chawda, Advocate.

2. Shri R. S. Kale, Workman.

INDUSTRY: General Insurance

STATE: Maharashtra

Dated the 9th October, 1970

AWARD

By order No. 40/5/69-LR-III(LR-I) dated 10th September 1969 the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) in exercise of the powers conferred by clause (d) of Sub-Section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred to this Tribunal for adjudication, an industrial dispute existing between the employers in relation to New Great Insurance Co. of India Ltd., Nagpur and their workman in respect of the matter specified in the schedule, mentioned below:—

SCHEDULE

"Whether the management of the New Great Insurance Company of India Limited, Nagpur was justified in terminating the services of Shri R. S. Kale, with effect from the 3rd August, 1968? If not, to what relief is he entitled?"

2. On the receipt of the reference, notices were issued to the parties to file their written statements.

3. In pursuance of the notice, the New Great Insurance Company of India Limited (hereinafter referred to as 'the Company') has filed written statement at Ex. 1/W on 13th October 1969 and rejoinder Ex. 3/E on 25th November 1969.

4. Shri R. S. Kale, the workman has filed written statement at Ex. 2/W on 28th October 1969 and rejoinder at Ex. 4/W on 26th November 1969.

5. After the receipt of written statement and rejoinders from both the parties, the reference was fixed for hearing at Nagpur on 28th December 1969. The same date was changed to 7th January 1970.

6. On 19th December 1969, application was received from the workman for calling upon the company to produce documents mentioned in application at Ex. 5/W. On 7th January 1970, after hearing both the parties, the Tribunal passed the following order below Ex. 5/W.

"The employer to keep all documents ready in their office at Nagpur and allow inspection of the same to the employee or his advocate within

15 days from today. After inspecting the documents concerned, the employee should file necessary statement. The employer should also file necessary statement. Thereafter the order regarding production will be considered."

7. On the same day further order was passed below this application as follows:—

"As regards the documents already available in Nagpur office, inspection be given immediately. As regards the other documents inspection should be given as soon as they become available in office. The employer should keep all documents mentioned above ready with them for production of them in Court as and when ordered to do so. Both parties to take note of this order."

8. On 18th February 1970, the workman gave application Ex. 7/W making some grievances about inspection of documents to be given to him by the employer. He prayed that inspection be given as per order already passed and that the company be ordered to produce all documents in the Court.

9. After hearing the objections of both the sides the following order was passed:—

"In the first instance, inspection of Shri Kale's record and his agents for the period from 1965 to 1968 be given to him. Necessary papers be kept ready for production in Court, if so ordered."

10. Thereafter this case was adjourned for hearing on 21st April 1970. On that day the management requested for adjournment. The hearing was adjourned to 22nd April 1970, but the parties requested for adjournment. The hearing was therefore adjourned to 24th April 1970. On that day the company showed willingness to give inspection of some other documents. As there was no objection inspection regarding business done by other Inspector Shri Joshi was ordered to be given within a week from that date. The workman was further ordered to communicate of his having taken inspection of this on or before 2nd May 1970, to the Tribunal at Bombay.

11. On 24th April, 1970 the workman gave another application Ex. 8/W for amending the statement of claim and rejoinder. The other side was therefore called upon to submit its say on or before 2nd May 1970.

12. The company sent its reply to the amendment application on 16th June 1970.

13. Thereafter the reference was fixed for hearing at Nagpur on 23rd July 1970. In the meanwhile, the workman sent his arguments regarding amendment application. The same was received in Bombay on 14th July 1970.

14. After considering the objections of the other side regarding amendment application given by the workman, the amendment as sought by the workman was allowed by me on 20th July 1970, giving the judgment.

15. On 23rd July 1970, the workman again gave application before me for directing the company for producing the letter referred to in the application.

16. On 24th July 1970 the workman gave another application praying that the documents mentioned therein may kindly be directed to be produced in the Court. The company prayed for 15 days time to give reply to the workman's application dated 24th July 1970. The company also gave another application praying for 15 days time to make necessary amendment in the written statement and rejoinder in view of the amendment of the statement of claim by the workman. 15 days time, as prayed for was therefore allowed.

17. On 22nd September 1970, Shri M. B. Mor, Counsel for the Employer sent a compromise alongwith a letter. That letter is as follows:—

"With reference to above, I have to inform you that the above dispute has been settled out of Court between the parties. You will kindly find enclosed regular application duly signed by the parties to dismiss the reference as settled out of Court in view of the payment of Rs. 9000 by Party No. 1 employer to Party No. 2 employee. The dispute is once for all settled.

Kindly record the compromise and pass the necessary orders and let us have the communication of the same for our record."

18. As the settlement was received by post and as the parties had not appeared before me personally, reference was fixed for hearing on 6th October, 1970.

19. On 6th October 1970, Shri P. N. Majumdar, Sub-Divisional Manager, New Great Insurance Co. of India Ltd. and Shri R. S. Kale, workman and Shri M. B. Mor, and S. J. Chawda their counsels appeared before me. I have recorded the statements of Shri P. N. Majumdar and the workman Shri R. S. Kale. Both of them admit that the dispute regarding termination of services of Shri Kale by the company has been settled. Shri Kale admits in his evidence before me that he has received Rs. 9000 in full satisfaction of his claim on 22nd August 1970 and that he has executed necessary receipt in favour of the company. Both of them admit to have put their signatures on the settlement dated 22nd August, 1970, sent to me by registered post to Bombay. They also admit that their counsels have put their signatures in their presence. Both of them pray that Award in terms of settlement be made.

20. Shri Kale was in the service of the company from 1st June 1965 till 2nd August 1968. The company terminated his service with immediate effect by letter dated 2nd August, 1968 without holding domestic enquiry against him though he was a confirmed employee, drawing a salary of Rs. 300 per month including Dearness Allowance and Compensatory Allowance.

21. Considering the period of Service of Shri Kale in the company and the amount of Rs. 9000 offered and given to him in full satisfaction of his claim, I find that the terms of the present settlement between the parties for settling the dispute are quite reasonable and satisfactory. I, therefore, accept the settlement and pass the following order:—

ORDER

- (i) Award in terms of settlement Marked 'A' is made.
- (ii) Settlement marked 'A' is to form part of the Award.
- (iii) No order as to costs.

(Sd.) N. K. VANI,
Presiding Officer,
Central Government Industrial
Tribunal No. 2, Bombay.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT NO. 2, BOMBAY

REFERENCE No. CGIT-2/13 of 1969

BETWEEN

Employers in relation to The New Great Insurance Company of India Ltd.,
Bombay and Nagpur

AND

Its workman (Shri R. S. Kale).

The parties named above beg to state as under:—

1. The parties have compromised the dispute out of Court on the following terms:—

- (a) The party No. 1 has paid to the Party No. 2 Rs. 9,000 (Rupees nine thousand only) in full and final settlement of all his claims pertaining to reinstatement which is given up, back wages, bonus, gratuity, Provident fund and all other money claims of whatever nature against Party No. 1 arising out of his employment with party No. 1 till date.
- (b) In view of the compromise party No. 2 withdraws the dispute and therefore the reference.
- (c) The parties shall bear their own costs.

Prayer:

The Hon'ble Court may kindly be pleased to dismiss the reference as settled out of Court.

Nagpur, dated 22nd August 1970.

Sub-Divisional Manager,
The New Great Insurance
Co. of India Ltd.,
(Sd.) (Party No. 1)

Nagpur.

22-8-1970.

(Sd.) Counsel for Party No. 1

22-8-70

(Sd.) (Party No. 2)
R. S. KALI,

(Sd) (Counsel for Party No. 2)

Receipt

Received Rs. 9,000 (Rupees Nine thousand only) *vide* Bank Cheque No. A0039629 dated 22nd August 1970 drawn on the Bank of Baroda, Nagpur from the New Great Insurance Company of India Ltd., Bombay and Nagpur in full and final settlement of my all claims pertaining to reinstatement, back wages, bonus, gratuity, Provident fund and all other money claims of whatever nature upto date arising out of my past employment with you, as compromised in pending Reference No. CGIT-2/13 of 1969 before the Central Government Industrial Tribunal-cum-Labour Court Bombay-2 between you the Company The New Great Insurance Company of India Ltd., Bombay and Nagpur and me the employee R. S. Kale and in consideration whereof I hereby completely discharge the Company from all the liabilities claimed or unclaimed and of whatsoever nature or kind.

Nagpur, dated the 22nd August 1970.

(Sd.) R. S. KALE.

[No. F.40/5/69-LR.I.]

ORDER

New Delhi, the 31st October 1970

S.O. 3693.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Canara Banking Corporation Limited, Mangalore and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by section 7A, and clause (d) of sub-section (1) of section 10, of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Shri B. M. Jayamahadeva Prasad shall be the Presiding Officer, with headquarters at Bangalore and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

(A) "Whether the action of the management of Canara Banking Corporation Limited, Mangalore, in not giving the correct designation to the Probationary Accountants as 'Special Assistants' as provided in the Bipartite Settlement dated the 19th October, 1966 and treating them as Officers from 1st January, 1970, is justified? If not, to what relief these employees are entitled?"

(B) "Whether the present policy of promotion followed by the management for promoting clerks to the post of Probationary Accountants and Probationary Accountants to Accountants is justified? If not, what should be the reasonable and fair promotion policy to be devised?"

[No. 23/110/70-LR.III.]

S. S. SAHASRANAMAN, Under Secy.

आदेश

नई दिल्ली, 31 अक्टूबर, 1970

क्र० आ० 3693.—यतः केन्द्रीय सरकार की राय है कि इससे उपाबद्ध अनुसूची में विनिर्दिष्ट विषयों के बारे में कनारा बैंकिंग कारपोरेशन लिमिटेड, मंगलौर के प्रबन्धतंत्र से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच एक औद्योगिक विवाद विद्यमान है ;

और यतः केन्द्रीय सरकार उक्त विवाद को न्यायनिर्णयन के लिए निर्देशित करना वांछनीय समझती है ;

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 7-क और धारा 10 के उपधारा (1) के खण्ड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार

एवद्वारा एक औद्योगिक अधिकरण गठित करती है, जिसके पीठासीन अधिकारी श्री बी० एम० जयमहादेव त्रपाद होंगे जिनका मुख्यालय बैंगलूर होगा और उक्त विवाद को उक्त औद्योगिक अधिकरण को न्यायनिर्णयन के लिए निर्देशित करती है।

अनुसूची

- (क) "क्या कनारा बैंकिंग कारपोरेशन लिमिटेड, मंगलौर के प्रबंधन के परिवीक्षाधीन लेखापालों को" "विशेष सहायकों" के रूप में, जैसा कि तारीख 19 अक्तूबर, 1966 वाले द्विपक्षीय समझौते में उल्लिखित है, सही पदनाम न देने और उन्हें प्रथम जनवरी, 1970 से अधिकारियों के रूप में मानने की कार्यवाही न्यायोचित है? यदि नहीं तो ये कर्मचारी किस अनुसूची के हकदार हैं?"
- (ख) "क्या लिपिकों को परिवीक्षाधीन लेखापालों के पद पर और परिवीक्षाधीन लेखापालों को लेखापालों के रूप में प्रोन्नत करने की प्रवन्धन द्वारा अन्यायी जा रही वर्तमान प्रोन्नति-नीति न्यायोचित है? यदि नहीं तो युक्तियुक्त और उचित प्रोन्नति-नीति क्या होनी चाहिए?"

[सं० 23/110/70-एल आर-3]

एस० एस० सहस्रनामन, अवर सचिव।

MINISTRY OF INFORMATION & BROADCASTING

ORDER

New Delhi, the 30th October 1970

S.O. 3694—In pursuance of the directions issued under the provisions of each of the enactments specified in the First Schedule annexed hereto, the Central Government after considering the recommendations of the Film Advisory Board, Bombay hereby approves the film specified in column 2 of the Second Schedule annexed hereto in Gujarati to be of the description specified against it in column 6 of the Second Schedule.

THE FIRST SCHEDULE

- (1) Sub-Section 4 of the Section 12 and Section 16 of the Cinematograph Act, 1952 (Central Act XXXVII of 1952).
- (2) Sub-Section (3) of Section 5 and Section 9 of the Bombay Cinemas (Regulation) Act, 1953 (Bombay Act XVII of 1953).
- (3) Sub-Section (4) of Section 5 and Section 9 of the Saurashtra Cine, as (Regulation) Act, 1953 (Saurashtra Act XVII of 1953).

THE SECOND SCHEDULE

Sl. No.	Title of the film	Length 35 MM	Name of the Applicant	Name of the Producer	Whether a Scientific film or a film intended for educational purposes or a film dealing with news & current events or a documentary film
1	2	3	4	5	6
1.	Mahitichitra No. 129	228.60 M	Director of Information, Government of Gujarat, Sachivalya, Ahmedabad.		Film dealing with news and current events (For release in Gujarat Circuit only).

[No. F. 28/1/70-FP App. 1516]

K. K. KHAN, Under Secy.

सूचना और प्रसारण मंत्रालय

आवेश

नई दिल्ली, 30 अक्टूबर, 1970

एस० ओ० 3694—इसके साथ लगी प्रथम अनुसूची में निर्धारित प्रत्येक अधिनियम के उपबन्ध के अन्तर्गत जारी किये गए निदेशों के अनुसार, केन्द्रीय सरकार, फिल्म सलाहकार बोर्ड, बम्बई की सिफारिशों पर विचार करने के बाद, एतद्वारा इसके साथ लगी द्वितीय अनुसूची के कालम 2 में दी गई फिल्म को उसके गुजराती भाषा रूपान्तरों सहित जिसका विवरण उसके सामने उक्त द्वितीय अनुसूची के कालम 6 में दिया हुआ है, स्वीकृत करता है :—

प्रथम अनुसूची

- (1) चलचित्र अधिनियम, 1952 (1952 का 37 वां केन्द्रीय अधिनियम) की धारा 12 की उपधारा (4) तथा धारा 16।
- (2) बम्बई सिनेमा (विनियम) अधिनियम 1953 (1953 का 17 वां बम्बई अधिनियम) की धारा 5 की उपधारा (3) तथा धारा 9।
- (3) सौराष्ट्र सिनेमा (विनियम) अधिनियम 1953 (1953 का 17 वां सौराष्ट्र अधिनियम) की धारा 5 की उपधारा (4) तथा धारा 9।

द्वितीय अनुसूची

क्रम संख्या	फिल्म का नाम	लम्बाई 35 मि० मी०	आवेदक का नाम	निर्माता का नाम	क्या वैज्ञानिक फिल्म है या शिक्षा सम्बंधी फिल्म है या समाचार और सामयिक घटनाओं की फिल्म है या डाकुमैन्ट्री फिल्म है
(1)	(2)	(3)	(4)	(5)	(6)
1)	महितीचिन्ता संख्या 129	228.60 मीटर	सूचना निदेशक, सचिवालय	गुजरात सरकार, अहमदाबाद	समाचार और सामयिक घटनाओं की फिल्म (केवल गुजरात सर्किट के लिये)

[संख्या फ० 28/1/70-एफ० पी० परिशिष्ट 1516]

क० क० खान, अवर सचिव।

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 29th October 1970

S.O. 3695 In exercise of the powers conferred by section 3 of the Terminal Tax on Railway Passengers Act, 1956 (69 of 1956) and of all the powers hereunto enabling and in supersession of the notification of the Government of India in the Ministry of Railways (Railway Board) No. F(X) II-65 TX-19/4 dated the 19th February, 1966, the Central Government hereby—

(a) fixes the rates specified in column (2) of the Schedule annexed hereto as the rates at which terminal tax shall be levied in respect of every railway ticket on all passengers carried by railway from or to the notified places specified in column (1) of the said Schedule;

(b) directs that the aforesaid terminal tax shall be leviable with effect from the 1st January 1971.

2. This notification shall come into force on the 1st January, 1971.

THE SCHEDULE

Names of notified places

Rates of terminal tax per single ticket

1	2			
	Adult		Child between 3 & 12 years of age	
	For short distance passengers (41-150 miles or 66-242 Kilometres)	For long distance passengers (over 150 miles or over 242 Kilometres)	For short distance passengers (41-150 miles or 66-242 Kms.)	For long distance passengers (over 150 miles or over 242 Kms.)
1. Allahabad Jn.				
2. Allahabad City				
3. Daraganj				
4. Naini Jn.				
5. Prayag				
6. Prayag Ghat (when opened)				
7. Phaphamau				
8. Subedarganj				
9. Bamrauli				
10. Jhusi.				
	Rs. P.	Rs. P.	Rs. P.	Rs. P.
Air-conditioned or 1st Class	1.40	1.50	0.70	0.75
2nd Class	0.90	1.00	0.45	0.50
3rd Class	0.40	0.50	0.20	0.25

Explanation : The Terminal Tax on a return ticket shall be double the rates fixed herein.

[No. F.(X)I-70/TX-19/14.]

C. S. PARAMESWARAN.

Secretary, Railway Board.

रेल मंत्रालय

(रेलवे बोर्ड)

नई दिल्ली, 29 अक्टूबर, 1970

एस० नो० 3695.—रेल यात्रियों पर सीमा कर अधिनियम, 1956 (1956 का 69) की धारा 3 द्वारा प्रदत्त शक्तियों तथा अब तक प्रदत्त अन्य सभी शक्तियों का प्रयोग करते हुए और भारत

सरकार, रेल मंत्रालय (रेलवे बोर्ड) की 19 फरवरी, 1966 की अधिसूचना सं० एक (एक्स) 11-65/टी एम्स-19/4 का अतिक्रमण करते हुए केन्द्रीय सरकार एतद्वारा :—

(क) इस अधिसूचना की अनुसूची के कालम (2) में उल्लिखित दर निश्चित करती है। इसी दर के प्रनुसार कथित अनुसूची के कालम (1) में उल्लिखित अधिसूचित जगहों से/तक जाने वाले सभी यात्रियों के प्रत्येक रेलवे टिकट पर सीमा कर लगाया जायेगा।

(ख) यह निर्देश देने है कि उपर्युक्त सीमा कर 1 जनवरी, 1971 से लागू किया जायेगा।

2. यह अधिसूचना 1 जनवरी, 1971 से लागू होगी।

अनुसूची

अधिसूचित जगह का नाम	प्रति इकहरे टिकट पर सीमा कर की दर			
1	2			
1. इलाहाबाद जं०	व्यस्क	3 और 12 वर्ष के बीच का बच्चा		
2. इलाहाबाद सिटी	थोड़ी दूरी के यात्रियों के लिए	लम्बी दूरी के यात्रियों के लिए	थोड़ी दूरी के यात्रियों के लिए	लम्बी दूरी के यात्रियों के लिए
3. दारागंज	(41-150 मील	(150 मील या	(41-150 मील	(150 मील या
4. नैनी जं०	या 66-242	242 किलो-	या 66-242	242 किलो-
5. प्रयाग	किलोमीटर)	मीटर से अधिक)	किलोमीटर)	मीटर से अधिक)
6. प्रयागवाट (जब खुला हो)				
7. फाफामऊ				
8. सुबेदारगंज				
9. बमरीली				
10. धूसी	र० पै०	र० पै०	र० पै०	र० पै०
वातानुकूल या				
पहला दर्जा	1-40	1-50	0-70	0-75
दूसरा दर्जा	0-90	1-00	0-45	0-50
तीसरा दर्जा	0-40	0-50	0-20	0-25

व्याख्या :—वापसी टिकट पर सीमा कर अनुसूची में निर्धारित दर से दुगुना होगा।

[सं० एक/(एक्स) 1-70/टी एक्स-19/14]

सी० एस० परमेश्वरम, सचिव, रेलवे बोर्ड

MINISTRY OF INDUSTRIAL DEVELOPMENT AND INTERNAL, TRADE

(Department of Internal Trade)

New Delhi, the 31st October 1970

S.O. 3696.—In pursuance of sub-rule (2) of rule 157 of the Trade Merchandise Marks Rules, 1959, the Central Government hereby notifies the following alteration made in the Register of Trade Marks Agents in the address of the principal place of business of Shri S. N. Mukherjee, a Registered Trade Mark Agents (Registration No. 75) namely:—

“Shri Sibendra Nath Mukherjee, C/o Messrs. S. N. Mukherjee & Co., 1, Netaji Subhas Road, Calcutta-1, West Bengal (India)”.

[No. F. 29(1)-I.T./I.T./M./70;]

औद्योगिक विकास तथा आंतरिक व्यापार मंत्रालय

(आंतरिक व्यापार विभाग)

नई दिल्ली, 31 अक्टूबर, 1970

कां.प्र. 3696—व्यापार और वाणिज्य चिन्ह नियम, 1959 के नियम 157 के उपनियम (2) के अनुसरण में केंद्रीय सरकार व्यापार चिन्ह अधिकर्ता के रजिस्टर में श्री एस० एन० मुखर्जी, रजिस्ट्रीकृत व्यापार चिन्ह अधिकर्ता (रजिस्ट्रीकरण सं० 75) के कारबार के प्रधान स्थान के पते में किए गए निम्नलिखित परिवर्तन को एतद्वारा अधिसूचित करती है, अर्थात्:—

“श्री सिबेन्द्र नाथ मुखर्जी,

द्वारा मैसर्स एस० एन० मुखर्जी एण्ड कंपनी,

1, नेताजी सुभाष रोड,

कलकत्ता-1, पश्चिमी बंगाल (भारत)।

[सं० फा० 29(1)/आई०टी०/टी/एम०/70]

New Delhi, the 4th November 1970

S.O. 3697.—The Central Government, in consultation with the Forward Markets Commission, having considered the application for renewal of recognition made under Section 5 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952) by the Punjab Company Limited, Bhatinda, and being satisfied that it would be in the interest of the trade and also in the public interest so to do hereby grants in exercise of the powers conferred by Section 6 of the said Act, recognition to the said Company for a further period of one year from 6th November, 1970 to 5th November 1971 (both days inclusive) in respect of forward contracts in cottonseed.

2. The recognition hereby granted is subject to the condition that the said Company shall comply with such directions as may from time to time be given by the Forward Markets Commission.

[No. F.12(13)-I.T./70.II.]

कां.प्र. 3697.—केंद्रीय सरकार, बावदा बाजार आयोग से परामर्श करके पंजाब कम्पनी लिमिटेड भटिंडा द्वारा अग्रिम संविदा (विनियमन) अधिनियम, 1952 (1952 का 74) की धारा 5 के अधीन मान्यता के नवीकरण के लिए आवेदन पर विचार करने पर और यह समाधान हो जाने पर कि ऐसा करना व्यापार के हित में और लोक हित में भी होगा, एतद्वारा उक्त अधिनियम की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त कम्पनी को 6 नवम्बर, 1970 से 5 नवम्बर, 1971 तक (जिसमें दोनों दिन सम्मिलित हैं) की एक वर्ष की और कालावधि के लिए विनौले में अग्रिम संविदा की बाबत मान्यता प्रदान करती है।

2. एतद्वारा प्रदान की गई मान्यता इस शर्त के अधीन है कि उक्त कम्पनी ऐसे निदेशों का अनुपालन करेगी जैसा कि बावदा बाजार आयोग द्वारा समय समय पर दिए जाएं।

[सं० फा० 12(13)—आई टी/70-II]

S.O. 3698.—The Central Government, in consultation with the Forward Markets Commission, having considered the application for renewal of recognition made under Section 5 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952) by the Punjab Company Ltd., Bhatinda, and being satisfied that it would be in the interest of the trade and also in the public interest so to do hereby grants in exercise of the powers conferred by section 6 of the said Act, recognition to the said Company for a further period of one year from 6th November, 1970 to 5th November, 1971 (both days inclusive) in respect of forward contracts in Kapas

2 The recognition hereby granted is subject to the condition that the said Company shall comply with such directions as may from time to time be given by the Forward Markets Commission.

[No. F.12(13)-I T / 70]

का०आ० 3698 —केंद्रीय सरकार ने वायदा बाजार आयोग से परामर्श करके पंजाब कम्पनी लिमिटेड, भटिंडा द्वारा अग्रिम सविदा (विनियमन) अधिनियम, 1952 (1952 का 74) की धारा 5 के अधीन मान्यता के नवीकरण के लिए एप्लिकेशन पर विचार करने पर, और यह समाधान हो जाने पर कि ऐसा करना व्यापार के हित में और लोकहित में भी होगा, एतद्वारा उक्त अधिनियम की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त कम्पनी को 6 नवम्बर, 1970 से 5 नवम्बर, 1971 तक (जिसमें दोनों दिन सम्मिलित हैं) की एक वर्ष की और कालावधि के लिए कपास में अग्रिम सविदा की बाबत मान्यता प्रदान करती है।

2 एतद्वारा प्रदान की गई मान्यता इस शर्त के अध्वधीन है कि उक्त कम्पनी ऐसे निदेशों का अनुपालन करेगी जैसा कि वायदा बाजार आयोग द्वारा समय समय पर दिए जाए।

[स० फा० 12(13)–आई०टी०/70-I]

S.O. 3699.—The Central Government, having considered in consultation with the Forward Markets Commission the application for renewal of recognition made under section 5 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), by the Southern Gujarat Oilseeds Merchants' Association Limited, Kapasia Hall, Palej, and being satisfied that it would be in the interest of the trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 6 of the said Act, recognition to the said Association for a further period of one year from the 16th November, 1970 to the 15th November, 1971 (both days inclusive) in respect of forward contracts in cottonseed

2 The recognition hereby granted is subject to the condition that the said Association shall comply with such directions as may from time to time be given by the Forward Markets Commission

[No F 12(14)-I T / 70]

का०आ० 3699 —केंद्रीय सरकार वायदा बाजार आयोग से परामर्श करके सदर्न गुजरात आयल सीड्स मर्चेन्ट्स एसोसिएशन लिमिटेड, कपासिया हाल, पलेज द्वारा अग्रिम सविदा (विनियमन) अधिनियम, 1952 (1952 का 74) की धारा 5 के अधीन मान्यता के नवीकरण के लिए आवेदन पर विचार करने पर और यह समाधान हो जाने पर कि ऐसा करना व्यापार के हित में और लोकहित में भी होगा, एतद्वारा उक्त अधिनियम की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त एसोसिएशन को 16 नवम्बर, 1970 से 15 नवम्बर, 1971 तक (जिसमें दोनों दिन सम्मिलित हैं) की एक वर्ष की और कालावधि के लिए बिनौले में अग्रिम सविदा की बाबत मान्यता प्रदान करती है।

2 एतद्वारा प्रदान की गई मान्यता इस शर्त के अध्वधीन है कि उक्त एसोसिएशन ऐसे निदेशों का अनुपालन करेगा जैसा कि वायदा बाजार आयोग द्वारा समय समय पर दिए जाए।

[स० फा० 12(14)–आई टी/70]

S.O. 3700.—The Central Government, in consultation with the Forward Markets Commission having considered the application for renewal of recognition made under section 5 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), by the Surendranagar Cotton Oil and Oilseeds Association Limited, Surendranagar,

and being satisfied that it would be in the interest of the trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 6 of the said Act, recognition to the said Association for a further period of one year ending the 22nd November, 1971 in respect of forward contracts in Kapas.

2. The recognition hereby granted is subject to the condition that the said Association shall comply with such directions as may from time to time be given by the Forward Markets Commission.

[No. F.12(15)-I.T./70.]

का०श्रा० 3700.—केन्द्रीय सरकार बायदा बाजार आयोग से परामर्श करके सुरेन्द्रनगर काउंटन ऑयल एण्ड ऑयल सीड्स एशोसिएशन लिमिटेड, सुरेन्द्र नगर द्वारा अग्रिम संविदा (विनियमन) अधिनियम, 1952 (1952 का 74) की धारा 5 के अधीन मान्यता के नवीकरण के लिए आवेदन पर विचार करने पर और यह समाधान हो जाने पर कि ऐसा करना व्यापार के हित में और लोक हित में भी होगा, एतद्वारा उक्त अधिनियम की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त एशोसिएशन को 22 नवम्बर, 1971 को समाप्त होने वाली एक वर्ष की और कालावधि के लिए कपास में अग्रिम संविदा की बाबत मान्यता प्रदान करती है।

2. एतद्वारा प्रदान की गई मान्यता इस शर्त के अधीन है कि उक्त एशोसिएशन ऐसे निदेशों का अनुपालन करेगा जैसा कि बायदा बाजार आयोग द्वारा समय समय पर दिए जाएं।

[सं० का० 12(15)-आई टी/70]

S.O. 3701.—The Central Government, in consultation with the Forward Markets Commission, having considered the application for renewal of recognition made under section 5 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), by the Mahesh Beopar Bhandar Company Limited, Dhuri, and being satisfied that it would be in the interest of the trade and also in the public interest so to do hereby grants in exercise of the powers conferred by Section 6 of the said Act, recognition to the said Company for a further period of one year from 6th November, 1970 to 5th November, 1971 (both days inclusive) in respect of forward contracts in Kapas.

2. The recognition hereby granted is subject to the condition that the said Association shall comply with such directions as may from time to time be given by the Forward Markets Commission.

[No. F.12(16)-I.T./70.]

R. C. SETHI, Dy. Secy.

का०श्रा० 3701.—केन्द्रीय सरकार, बायदा बाजार आयोग से परामर्श करके महेश व्यापार भंडार कम्पनी लिमिटेड, धुरी द्वारा अग्रिम संविदा (विनियमन), अधिनियम, 1952 (1952 का 74) की धारा 5 के अधीन मान्यता के नवीकरण के लिए आवेदन पर विचार करने पर और यह समाधान हो जाने पर कि ऐसा करना व्यापार के हित में और लोक हित में भी होगा, एतद्वारा उक्त अधिनियम की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त कम्पनी को 6 नवम्बर, 1970 से 5 नवम्बर, 1971 तक (जिसमें दोनों दिन सम्मिलित हैं) की एक वर्ष की और कालावधि के लिए कपास में अग्रिम संविदा की बाबत मान्यता प्रदान करती है।

2. एतद्वारा प्रदान की गई मान्यता इस शर्त के अधीन है कि उक्त कम्पनी ऐसे निदेशों का अनुपालन करेगी जैसा कि बायदा बाजार आयोग द्वारा समय समय पर दिए जाएं।

[सं० का० 12 (16)-आई टी/70]

आर० सी० सेठी, उप सचिव।

(Department of Industrial Development)

Indian Standards Institution

New Delhi, the 26th October 1970

S.O.3702—In pursuance of sub-regulation (3) of regulation 7 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that the marking fee(s) per unit for plywood, details of which are given in the Schedule hereto annexed, have been determined and the fee(s) shall come into force with effect from 1 October 1970:

THE SCHEDULE

Sl. No.	Product/Class of Products.	No. and Title of Relevant Indian Standard.	Unit	Marking Fee per Unit
(1)	(2)	(3)	(4)	(5)
1	Tea-chest plywood panels.	IS: 10—1964 Specification for plywood tea-chests (<i>second revision</i>).	10 m ²	14 paise
2	Commercial plywood	IS: 303—1960 Specification for plywood for general purposes (<i>revised</i>)	10 m ²	14 paise

[No. CMD/13 : 10]

(औद्योगिक विकास विभाग)

(भारतीय मानक संस्था)

नई दिल्ली, 26 अक्टूबर 1970

एसओ 3702.—भारतीय मानक संस्था (प्रमाणन चिह्न) विनियम 1955, के विनियम 7 के उपविनियम (3) के अनुसार भारतीय मानक संस्था की ओर से सूचित किया जाता है कि प्लाईवुड की प्रति इकाई मुहराकन फीम, जिसके ब्यौरे नीचे अनुसूची में दिए हैं, निर्धारित की गई हैं और यह फीम 1 अक्टूबर, 1970 से लागू हो जाएगी।

अनुसूची

क्र. संख्या	उत्पाद/उत्पादन का वर्ग	सम्बद्ध भारतीय मानक संस्था और शीर्षक	इकाई	प्रति इकाई मुहर लगाने की फीस
(1)	(2)	(3)	(4)	(5)
1	चाय की पेटियों की प्लाईवुड	IS : 10—1964 चाय की पेटियों की विशिष्ट (दूसरा पुनरीक्षण)	10 मी ²	14 पैसे
2	व्यापारी प्लाईवुड	IS : 303—1960 सामान्य कार्यों के लिए प्लाईवुड (पुनरीक्षण)	10 मी	14 पैसे

[सं. सी.एम.डी/13 : 10]

New Delhi, the 27th October 1970

S.03703.—In pursuance of sub-regulation (4) of regulation 14 of the Indian Standards Institution (Certification Marks) Regulation 1955, as amended from time to time, the Indian Standards Institution hereby notifies that licences No. CM/L-17 and CM/L-475, particulars of which are given below have been cancelled with effect from 16 October, 1970 since, the firm has shown its inability to operate these licences.

Sl. No.	Licence No. & Date	Name and Address of the Licensee	Article/Process covered by the licence cancelled	Relevant Indian Standard
1	CM/L-17 25-9-56.	M/s. V. Gopalakrishnan Chettiar & Co., Proprietors : Madura Metal Products, 14-C, Bridge Station Road, Sellur, Tallakulam, Madurai.	Wrought Aluminium and Aluminium Alloy Utensils.	IS: 21-1959 Specification for Wrought Aluminium and Aluminium Alloys for Utensils (Second Revision.)
2	CM/L-475 27-11-62	M/s. V. Gopalakrishnan Chettiar & Co., Proprietors : Madura Metal Products, 32, 32-A, Bridge Station Road, Sellur, Tallakulam, Madurai.	Wrought Aluminium Circles, Grades S1B & S1C	IS: 21-1959 Specification for Wrought Aluminium and Aluminium Alloys for Utensils. (Second Revision.)

[No. CMD/55 : 1

A. K. GUPTA,

Deputy Director General.

नई दिल्ली 27 अक्टूबर 1970

एस०ओ० 3703.—समय समय पर संशोधित भारतीय मानक संस्था (प्रमाणन चिह्न) विनियम 1955, के विनियम 14 के उपविनियम (4) के अनुसार भारतीय मानक संस्था की ओर से अधिसूचित किया जाता है कि चूंकि फर्म ने लाइसेंस सं० सी एम/एल-17 और सी एम/एल-475 को चला पाने में अपनी असमर्थता दिखाई है इसलिए ये लाइसेंस जिनके व्योरे नीचे दिए हैं 16 अक्टूबर, 1970 से रद्द किए गए हैं :

लाइसेंस संख्या और तारीख	लाइसेंसधारी का नाम और पता	रद्द किए लाइसेंस के अधीन वस्तु/प्रक्रिया	तत्सम्बन्धी भारतीय मानक
1	2	3	4
सी एम/एल-17 25-9-56	मेसर्स वी० गोपालकृष्णन् चेट्टियार एण्ड कंपनी मालिक मद्रुरा मेटल प्रोडक्ट्स, 14-सी, ब्रिजस्टेशन रोड, सेल्लुर, तल्लकुलम मद्रुरई	पिटवां एल्युमिनियम और एल्युमिनियम मिश्रधातु के बर्तन	IS: 21-1959 बर्तनों के लिए पिटवां एल्युमिनियम और एल्युमिनियम मिश्रधातुओं की विशिष्टता (दूसरा पुनरीक्षण)

1	2	2	4
सी एम/एन 475 27-11-62	मेसर्स बी० गोपालकृष्णन् चेट्टियार एण्ड कं० मालिक मदुरा मेटल प्रोडक्ट्स 32, 32-ए, ब्रिज रोड, सेल्लूर, तल्लाकुलम, मदुरई	पिटवां एल्युमिनियम के वृत्त, ग्रेड एस आई बी और एस आई सी	IS : 21-1959 वर्तनों के लिए पिटवां एल्युमिनियम और एल्युमिनियम मिश्र- धातुओं की विशिष्ट (दूसरा पुनरीक्षण)

[स० सी० एम० डी/55:17]

ए० के० गुप्ता,

उपमहानिदेशक ।

MINISTRY OF FINANCE

(Department of Banking)

New Delhi, the 26th October 1970

S.O. 3704.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), and Rule 16 of the Banking Regulation (Companies) Rules, 1949, the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of section 31 of the said Act and Rule 15 of the said Rules shall not apply up to the 31st day of December, 1970, to the undernoted banks in so far as they relate to the publication of their balance sheets and profit and loss accounts for the period 19th July to the 31st December, 1969, together with the auditors' reports in a newspaper and furnishing three copies thereof as returns to the Reserve Bank of India.

1. Allahabad Bank.
2. Bank of Baroda.
3. Bank of India.
4. Bank of Maharashtra.
5. Canara Bank.
6. Central Bank of India.
7. Dena Bank.
8. Indian Bank.
9. Indian Overseas Bank.
10. Punjab National Bank.
11. Syndicate Bank.
12. Union Bank of India.
13. United Bank of India.
14. United Commercial Bank.

[No. 13(2)NB/70-Pt.II.]

S. R. WADHWA, Under Secy.

वित्त मंत्रालय

(बैंकिंग विभाग)

नई दिल्ली, 26 अक्तूबर, 1970

एन० सी० 3704.—बैंकिंग विनियमन अधिनियम, 1949 (1949 का 10वां) की धारा 53 और बैंकिंग विनियमन (कम्पनियां) नियमावली, 1949 के नियम 16 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, रिजर्व बैंक की सकारिश पर, एन० द्वारा यह घोषित करती है कि निम्नलिखित बैंकों पर 31 दिसम्बर, 1970 तक उक्त अधिनियम की धारा 31 और उक्त नियमावली के नियम 15 के उद्देश्य उत मोमा तक लागू नहीं होंगे जहां तक कि उनका संबंध लेखापरिक्षक की रिपोर्ट

सहित 19 जुलाई से 31 दिसम्बर, 1969 की अवधि के लिये उनके तलपट और लाभ-हानि के खाते का प्रकाशन किसी समाचार-पत्र में करने तथा विवरण के रूप में उनकी तीन प्रतियां भारतीय रिजर्व बैंक को प्रदान करने से है।

1. इलाहाबाद बैंक
2. बैंक आफ बरोदा
3. बैंक आफ इण्डिया
4. बैंक आफ महाराष्ट्र
5. कनारा बैंक
6. सेण्ट्रल बैंक आफ इण्डिया
7. देना बैंक
8. इण्डियन बैंक
9. इण्डियन ओवरसीज बैंक
10. पंजाब नेशनल बैंक
11. सिण्डीकेट बैंक
12. यूनियन बैंक आफ इण्डिया
13. यूनाइटेड बैंक आफ इण्डिया
14. यूनाइटेड कमर्शियल बैंक

[सं० 13(2) एन०बी०/70-पार्ट-II]

एस० आर० वधवा, अनु-सचिव ।

(Department of Banking)

New Delhi, the 30th October 1970

S.O. 3705.—Statement of the Affairs of the Reserve Bank of India, as on the 23rd October, 1970

BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital Paid Up . . .	5,00,00,000	Notes	13,14,10,000
		Rupee Coins	4,17,000
Reserve Fund . . .	150,00,00,000	Small Coin	5,58,000
National Agricultural Credit (Long Term Operations) Fund	172,00,00,000	Bills Purchased and Discounted :—	
		(a) Internal
		(b) External	
		(c) Government Treasury Bills	24,13,81,000
National Agricultural Credit (Stabilisation) Fund	37,00,00,000	Balances Held Abroad*	119,76,16,000
National Industrial Credit (Long Term Operations) Fund	95,00,00,000	Investments**	131,67,63,000
		Loans and Advances to:—	
		(i) Central Government	
		(ii) State Governments@	177,81,20,000
Deposits—		Loans and Advances to:—	
		(i) Scheduled Commercial Banks†	127,61,80,000
(a) Government—		(ii) State Co-operative Banks ††	269,74,37,000
(i) Central Government	134,64,26,000	(iii) Others	3,08,95,000

(ii) State Governments		5,63,23,000	Loans, Advances and Investments from National Agricultural Credit (Long Term Operations) Fund	
(b) Banks			(a) Loans and Advances to :—	
(i) Scheduled Commercial Banks		183,98,12,000	(i) State Governments	34,41,71,000
(ii) Scheduled State Co-operative Banks		8,55,21,000	(ii) State Co-operative Banks	21,58,39,000
(iii) Non-Scheduled State Co-operative Banks		81,22,000	(iii) Central Land Mortgage Banks
(iv) Other Banks		126,44,000	(b) Investment in Central Land Mortgage Bank Debentures Loans and Advances from National Agricultural Credit (Stabilisation) Fund	9,57,02,000
			Loans and Advances to State Co-operative Banks	5,01,80,000
			Loans, Advances and Investments from National Industrial Credit (Long Term Operations) Fund:—	
(c) Others		109,42,77,000	(a) Loans and Advances to the Development Bank	26,26,71,000
Bills Payable		44,18,27,000	(b) Investment in bonds/debentures issued by the Development Bank
Other Liabilities		49,34,40,000	Other Assets	31,90,52,000
		<u>Rupees 995,83,92,000</u>		<u>Rupees . 995,83,92,000</u>

*Includes Cash, Fixed Deposits and Short-term Securities.

**Excluding Investments from the National Agricultural Credit (Long Term Operations) Fund and the National Industrial Credit (Long Term Operations) Fund.

@Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary overdrafts to State Governments.

†Includes Rs. 61,43,75,000 advanced to scheduled commercial banks against usance bills under Section 17(4)(c) of the Reserve Bank of India Act.

††Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 28th day of October, 1970.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 23rd day of October, 1970.

ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department	13,14,10,000		Gold Coin and Bullion :—		
Notes in circulation	<u>3915,13,93,000</u>		(a) Held in India	182,53,11,000	
Total Notes issued		3928,28,03,000	(b) Held outside India	
			Foreign Securities	<u>361,42,00,000</u>	
			TOTAL		543,95,11,000
			Rupee Coin		61,99,36,000
			Government of India Rupee Securities		3322,33,56,000
			Internal Bills of Exchange and other commercial paper		
TOTAL LIABILITIES		<u>3928,28,03,000</u>	TOTAL ASSETS		<u>3928,28,03,000</u>

Dated the 28th day of October, 1970.

S. JAGAN NATHAN,
Governor.

[No. F. 3(3)-BC/70]

(बैंकिंग विभाग)

नई दिल्ली, 30 अक्टूबर, 1970

सं० ओ० 3705.—23 अक्टूबर 1970 को रिजर्व बैंक ऑफ इंडिया के बैंकिंग विभाग के कार्यकलाप का विवरण ।

देयताएं	रुपये	प्राप्ति	रुपये
चुक्ता पूंजी	5,00,00,000	नोट	13,14,10,000
प्रारक्षित निधि	150,00,00,000	रुपये का सिक्का	4,17,000
		छोटा सिक्का	5,58,000
राष्ट्रीय कृषि ऋण (दीर्घकालीन क्रियाएं) निधि	172,00,00,000	खरीदे और भुनाये गये बिल :—	
राष्ट्रीय कृषि ऋण (निष्परीकरण) निधि	37,00,00,000	(क) देशी
		(ख) विदेशी
राष्ट्रीय औद्योगिक ऋण (दीर्घकालीन क्रियाएं) निधि	95,00,00,000	(ग) सरकारी खजाना बिल	24,13,81,000
		विदेशों में रखा हुआ ऋण*	119,76,16,000
जमा-राशियां :—		निवेद्य**	131,67,63,000
(क) सरकारी		ऋण और भण्डन :—	
(i) केन्द्रीय सरकार	134,64,26,000	(i) केन्द्रीय सरकार को
(ii) राज्य सरकारें	5,63,23,000	(ii) राज्य सरकारों को @	177,81,20,000
(ख) बैंक		ऋण और भण्डन :—	
(i) अनुसूचित वामज्य बैंक	183,98,12,000	(i) अनुसूचित वामज्य बैंकों को†	127,61,80,000
(ii) अनुसूचित राज्य सहकारी बैंक	8,55,21,000	(ii) राज्य सहकारी बैंकों को††	269,74,37,000
		(iii) दूसरों को	3,08,95,000
		राष्ट्रीय कृषि ऋण (दीर्घकालीन क्रियाएं) निधि से ऋण, भण्डन और निवेद्य :—	

वेयताएं	रुपय	आस्तियां	रुपये
		(क) ऋण और अग्रिम:—	
(iii) गैर-अनुसूचित राज्य सहकारी बैंक	81,22,000	(i) राज्य सरकारों को	34,41,71,000
(iv) अन्य बैंक	26,44,000	(ii) राज्य सहकारी बैंकों को	21,58,39,000
		(iii) केन्द्रीय भूमिबन्धक बैंकों को
(ग) अन्य	109,42,77,000	(ख) केन्द्रीय भूमिबन्धक बैंकों के डिबेंचरों में निवेश राष्ट्रीय कृषि ऋण (स्थिरीकरण) निधि से ऋण और अग्रिम	9,57,02,000
वेय बिल	44,18,27,000	राज्य सहकारी बैंकों को ऋण और अग्रिम	5,01,80,000
		राष्ट्रीय औद्योगिक ऋण (दीर्घकालीन क्रियाएं) निधि से ऋण, अग्रिम और निवेश:—	
अन्य वेयताएं	49,34,40,000	(क) विकास बैंक को ऋण और अग्रिम	26,26,71,000
		(ख) विकास बैंक द्वारा जारी किये गये बांडों/डिबेंचरों में निवेश अन्य आस्तियां	31,90,52,000
रुपये	995,83,92,000	रुपये	995,83,92,000

* नकदी, आवधिक जमा और अल्पकालीन प्रतिभूतियां शामिल हैं।

** राष्ट्रीय कृषि ऋण (दीर्घकालीन क्रियाएं) निधि और राष्ट्रीय औद्योगिक ऋण (दीर्घकालीन क्रियाएं) निधि में से किये गये निवेश शामिल नहीं हैं।

@ राष्ट्रीय कृषि ऋण (दीर्घकालीन क्रियाएं) निधि से प्रदत्त ऋण और अग्रिम शामिल नहीं हैं, परन्तु राज्य सरकारों के अस्थायी ओवरड्राफ्ट शामिल हैं।

† रिजर्व बैंक ऑफ इंडिया अधिनियम की धारा 17 (4) (ग) के अधीन अनुसूचित वाणिज्य बैंकों को मियादी बिलों पर अग्रिम दिये गये 61,43,75,000 रुपये शामिल हैं।

†† राष्ट्रीय कृषि ऋण (दीर्घकालीन क्रियाएं) निधि और राष्ट्रीय कृषि ऋण (स्थिरीकरण) निधि से प्रदत्त ऋण और अग्रिम शामिल नहीं हैं।

तारीख: 28 अक्तूबर, 1970।

रिज़र्व बैंक ऑफ इंडिया अधिनियम, 1934 के अनुसरण में अक्तूबर 1970 की 23 तारीख को समाप्त हुए] सप्ताह के लिये लेखा
इस विभाग

देयताएं	रुपय	रुपये	आस्तियां	रुपये	रुपये
बैंकिंग विभाग में रखे हुए			सोने का सिक्का और बुलियन :-		
नोट . . .	13,14,10,000		(क) भारत में रखा हुआ	182,53,11,000	
संचालन में नोट	3915,13,93,000		(ख) भारत के बाहर रखा		
			हुआ	..	
			विदेशी प्रतिभूतियां	361,42,00,000	
जारी किए गए कुल नोट		3928,28,03,000			
			बोड़ . . .		543,95,11,000
			रुपये का सिक्का		61,99,36,000
			भारत सरकार की रुपया		
			प्रतिभूतियां		3322,33,56,000
			पैनी विनियम बिल और		
			दूसरे बाणिज्य पत्र		
कुल देयताएं .		3928,28,03,000	कुल आस्तियां		3928,28,03,000

तारीख: 28 अक्तूबर, 1970।

एस० जगन्नाथन,
चबूतरा ।

[सं० फ० 3(3)-बी० सी०/70]

New Delhi, the 3rd November 1970

S.O. 3706.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of section 9 of the said Act shall not apply, till the 27th September 1971, to the Bank of Karaikudi Ltd., Karaikudi, in respect of the two house properties, viz. 1/3 portion of the property bearing T.S. Nos. 144 and 145 at Dharmanarayanan Chettiar Street and 1/12th portion of the property bearing T.S. No. 406 near Senior Street, both held in Ward No. XII, Karaikudi.

[No. F.15(22)-BC/70.]

K. YESURATNAM, Under Secy.

नई दिल्ली, 3 नवम्बर, 1970

एस०ओ० 3706.—बैंकिंग विनियमन अधिनियम, 1949 (1949 का 10वाँ) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार रिजर्व बैंक की सिफारिश पर एतद्द्वारा यह घोषित करती है कि उक्त अधिनियम की धारा 9 के उपबन्ध 27 सितम्बर, 1971 तक बैंक आफ कराइकुडि लिमिटेड, कराइकुडि, पर उसकी दो गृह-सम्पत्तियों पर, अर्थात् धर्मनारायण चेट्टियार स्ट्रीट स्थित टी०एस० सं० 144 और 145 वाली सम्पत्ति के तिहाई भाग और सेनियार स्ट्रीट के निकट टी०एस० सं० 406 वाली सम्पत्ति के बारहवें भाग, के सम्बन्ध में लागू नहीं होंगे। ये दोनों ही सम्पत्ति कराइकुडि के वार्ड सं० XII में स्थित हैं।

[सं० एक० 15 (22)—बी सी/70]

के० येसुरतनम, अनु-सचिव।

(Department of Revenue and Insurance)

INCOME-TAX

New Delhi, the 28th/30th October 1970

S.O. 3707.—It is hereby notified for general information that the institution mentioned below has been approved by the Council of Scientific & Industrial Research, the "Prescribed Authority" for the purposes of clause (ii) of sub-section 1) of Section 35 of the Income Tax Act, 1961 (43 of 1961):

Institution

Zaheer Science Foundation, New Delhi.

[No. 176/F. No. 203/4/70-IT-(AII.)]

S. N. NAUTIAL, Dy. Secy.

(राजस्व और बीमा विभाग)

आयकर

नई दिल्ली, 28/30 अक्टूबर, 1970

एस० ओ० 3707.—सर्वसाधारण की सूचना के लिए एतद्द्वारा अधिसूचित किया जाता है कि नीचे वर्णित संस्था को, आयकर अधिनियम, 1961 (1961 का 43) की धारा 35 की उपधारा (1) के खण्ड (ii) के प्रयोजनों के लिए, वैज्ञानिक और औद्योगिक अनुसंधान परिषद् द्वारा "विहित प्राधिकरण" के रूप में अनुमोदित किया गया है।

संस्था

जहीर साईंस फाउंडेशन, नई दिल्ली

[सं० 176 (एफ० सं० 203/4/70—आई टी (ए II)]

एस० एन० नौटियाल उप सचिव।

CENTRAL EXCISE COLLECTORATE NAGPUR

Nagpur, the 10th September 1970

S.O. 3708.—In exercise of the powers conferred on me by Rule 5 of the Central Excise Rules, 1944, I Vipin Maneklal, Collector of Central Excise, Nagpur, authorise the officers not below the rank of an Assistant Collector of Central Excise in the Central Excise Collectorate of Madhya Pradesh and Vidarbha, to exercise, within their respective jurisdictions, the powers of the Collector under rule 206(3) of Central Excise Rules, 1944, in regard to release of conveyances seized for violation of the Central Excise Rules.

[No. 2/C.Ex./70.]

VIPIN MANEKLAL, Collector.

केन्द्रीय उत्पादन शुल्क कलेक्टर, मध्य प्रदेश एवं विदर्भ, नागपुर

नागपुर, 10 सितम्बर 1970

एस० एन० 3708.—सेन्ट्रल एक्साइज नियमन 1944 के नियम 5 के अनुसार मुझे दिये गये अधिकारों के अन्तर्गत मैं, विपिन मानिक लाल, सहायक केन्द्रीय उत्पादन शुल्क नागपुर, ऐसे अधिकारियों को जो कि मध्य प्रदेश एवं विदर्भ कलेक्टर उत्पादन शुल्क विभाग में सहायक सभाहार्ता से निम्न श्रेणी के नहीं प्राधिकृत करता हूँ कि वे अपने अधिनस्थ क्षेत्र में सेन्ट्रल एक्साइज नियमन 1944 नियम 206 (3) के अन्तर्गत मुझ में निहित जप्त शुदा वाहनों को मुक्त करने के बाबत अधिकारों का प्रत्यायोजन कर सकते हैं।

[सं० 2/से० ए०/60]

विपित मानिक लाल, सभाहार्ता।

CENTRAL EXCISE COLLECTORATE, BARODA

CUSTOMS

Baroda, the 3rd October 1970

S.O. 3709.—In exercise of the powers conferred by Section 10 of the Customs Act, 1962 (52 of 1962), the Collector of Customs and Central Excise, Baroda, hereby declares OKHA BEYT (SANKHODWAR BEYT) situated on the southern coast and NAVINAL POINT (a place in the port limit of Mundra) on the Northern coast of the Gulf of Kutch, as Boarding Stations and orders that all sailing vessels entering or leaving the Gulf of Kutch and passing through the port limits of the ports of OKHA, OKHA BEYT (SANKHODWAR BEYT) or MUNDRA shall call at either of the above referred boarding stations for the purpose of boarding of, or disembarkation from, vessels by officers of Customs.

This Notification shall come into force from 16th November, 1970 (Sixteenth of November, 1970).

[No. 5/1970.]

L. M. KAUL, Collector.

केन्द्रीय उत्पादन शुल्क कलेक्टर, बड़ोदा सीमा शुल्क

बड़ोदा 3 अक्टूबर, 1970

एस० एन० 3709.—सीमा शुल्क अधिनियम 1962 (1962 का 52वां) की धारा 10 के अधीन प्रदत्त अधिकारों का प्रयोग करते हुए कलेक्टर, सीमा शुल्क, तथा केन्द्रीय उत्पादन शुल्क बड़ोदा एतद्वारा कुछ की खाड़ी के दक्षिणी किनारे पर स्थिति ओखाबेट (संखोद्वार बेट) की तथा उत्तरी किनारे

पर स्थित नविसल पोर्ट (मुंबई को बन्दरगाह सीमा में एक स्थल) का बोर्डिंग स्टेशन घोषित कर लें, और आदेश देते हैं कि कुछ की खाड़ी में आने वाले वहाँ से जाने वाले सभी पाल जलयान तथा ओखा, ओखा बेट (संखाएदार बेट) या मुंदड़ा बन्दरगाहों की बन्दरगाह सीमा में होकर गुजरने वाले सभी जहाज उक्त बोर्डिंग स्टेशनों में से किसी एक पर सीमा शुल्क अधिकारियों के बढ़ने उतरने के लिए जाएंगे।

यह अधिसूचना 16-11-1970 (16 नवम्बर 1970) से प्रभावशील होगी

[सं० 5/1970]

शे० शे० कौल,, कप्तान।